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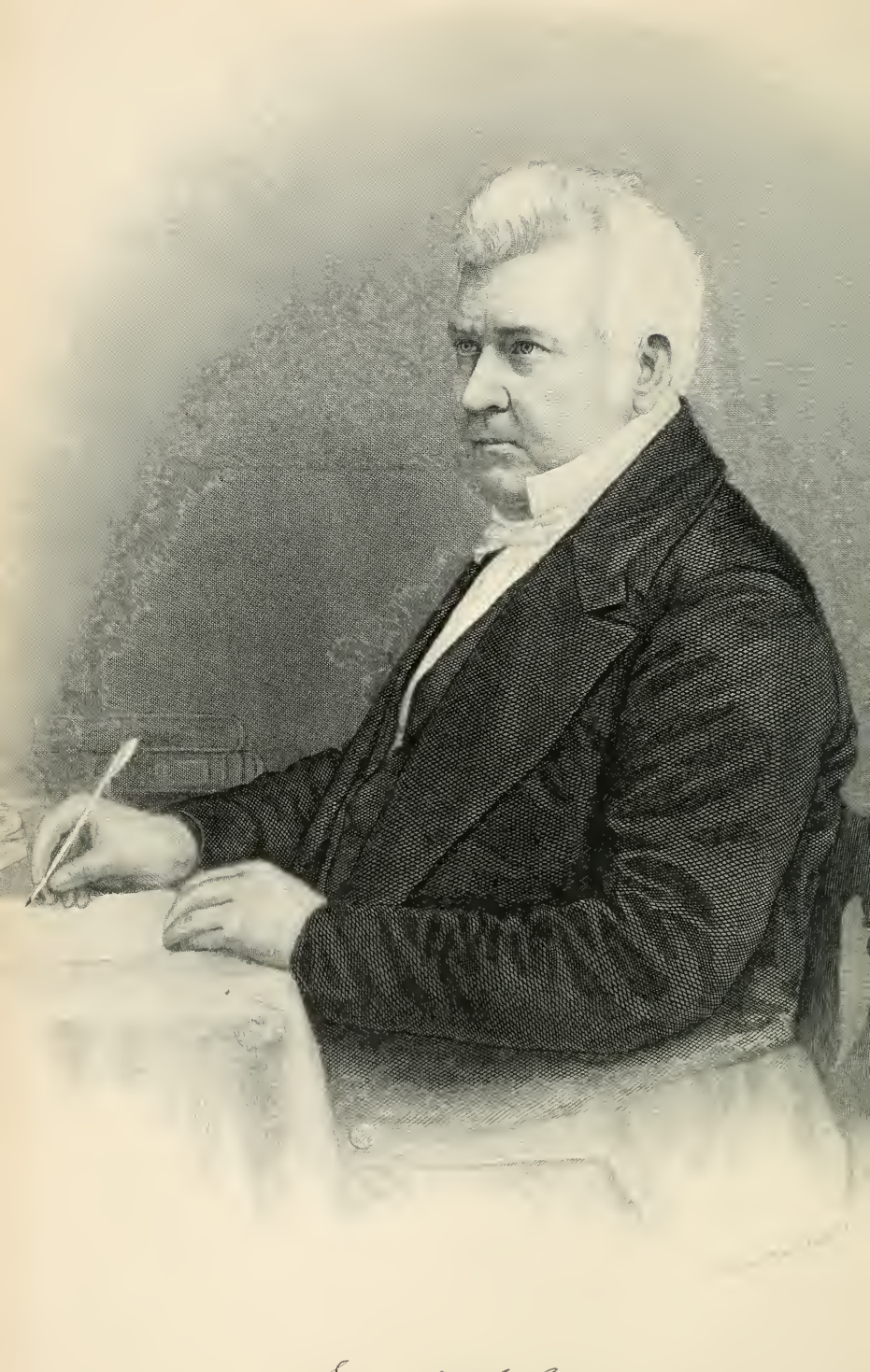

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PAPERS OF THE HISTORICAL SOCIETY OF DELAWARE.

IV.

MEMOIR

—OF—

JOHN M. CLAYTON.

—BY—

JOSEPH P. COMEGYS.

THE HISTORICAL SOCIETY OF DELAWARE,

WILMINGTON:

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The following Memoir consists of papers which were read before the Historical Society of Delaware, on two several occasions, with additions subsequently made by the author.

MEMOIR

OF

JOHN M. CLAYTON.

Mr. President and Gentlemen of the Historical Society of Delaware:

I should state, before I commence my reading of this memoir, that I have exhibited the subject of it in a most favorable light. A memoir should do nothing less; especially when prepared, as this has been, at the instance of a Society concerned in presenting the distinguished men of the State, and the features of her history, in the best view for public admiration. With this in my mind, and yet not forgetting the duty I owed to truth, I have delineated the character and achievements of John M. Clayton as they appeared to me, his cotemporary and admirer; though not insensible, however, to knowledge of infirmities of nature common to most of us. I have presented him as he should be shown to the people of Delaware, in his public aspect, as tradition, personal knowledge, and

the records of our country, exhibit him; feeling it to be the duty I was under to the Society, to its interests and purposes, and to candor, to look at and portray him just as I have done. Like other men, he had weaknesses; but no man can point to any act, or expression, of his private life, even, that shows the slightest stain upon his character. Though a member of no church or religious congregation, he yet was an unquestioning believer in every article and creed of the Christian religion; and had no respect for, or patience with, the sentiments of its opponents. He cherished, especially, the moral virtues of honesty, fidelity to friendship, gratitude; and never forgot the services, how slight soever, that any rendered him, nor failed to grieve for those who forgot the favors he had done them. There were, of course, in his life, some of the latter, as there are in that of other men, but his charitable spirit made him willing to refer their defection to some *temptation of the devil* which they were too weak to resist. But he never trusted them again; his knowledge of human nature would not allow that. Nor did he permit them, by any act of his, to suppose that he could. Still he could not descend to vindictiveness. Such was the absolute sway, almost, that John M. Clayton held in Delaware, politically, from 1828 till the close of General Taylor's administration, a period of more than thirty years, that he never once failed to lead his political friends in the course he preferred—which shows not only the superiority of his judgment with respect to the affairs of his

party, but that there was no fault in him as a leader that could form a nucleus for opposition. He *reigned supreme;* as a party leader should, who possesses in the eminent degree he did, sagacity, oratorical power, unselfishness. Men there were of his own party who envied his power and hoped to destroy it; but whenever they essayed a movement for that purpose, it was always defeated. His party in Delaware knew that *he* was their champion, and not the small men who assailed him; and they clung to him with all the fidelity which loyalty to their own party advantage required of them. And such fidelity, they well knew, could not be yielded to a worthier person. Nor less had he the respect of his opponents. They made war upon him, of course, and upon the political theories he supported; but, at the same time he did nothing, public or private, that abated their admiration of him in the least. Oh for the return of the days when men could pardon the difference of opinion of their political adversaries, and respect the honorable methods they took for enforcing it!

MEMOIR.

I beg you believe, that, when the time came for performance of the task I assumed, in accepting the invitation of the Society to read, before its members, a memoir of the late John M. Clayton, I regretted your selection, because I felt that, in every step of my progress in the work of preparation, I should feel, and painfully too, that other hands than mine ought to have been employed for a service, all the more difficult, because the subject of it was of such importance, in his day and generation, that only the most comprehensive observer and delineator of men's character, could do full justice to his merits. Although John M. Clayton, if he had been as wise as Solomon, could not have attained the renown which, in this country, only crowns the career of great political, national leaders — because he was a citizen of the smallest State in the Union — yet, he had a fame as a statesman, jurist, and man of splendid forensic abilities, which, in his day, was very wide and solid, and was promised in his young life by the intellectual gifts he then showed that he pos-

sessed. All his friends and acquaintances felt, ere he stepped upon the stage of real, active, public life, at the bar, even, that he would soon attain an eminence, among men, of the highest grade. Were such anticipations realized? That is for you to say, when I have recounted the events of his life, his career, private and public, so far as the limits of this paper will allow me to do it. And, first, let me give you some knowledge of the birth and parentage of our subject.

In England, in tracing family descent, it is considered a matter of the first importance to be able to say, of the subject of a memoir, that his ancestors came over with the Conqueror; as if it should afford those calling themselves Anglo-Saxon Englishmen any satisfaction to be able to carry back their lineage to the conquerors of Harold. With us in America, it is quite the fashion to be able to say, that such an one's ancestors came to these shores in the Mayflower; as if there were any merit in such parentage beyond that which can be claimed at any time, by those descended from any other immigrants seeking to establish, in a new home, modes of Christian worship more in accordance with their notions of fitness than the prevailing ones whence they came; — or that they came here in the train of Lord Baltimore, a nobleman of courtly lineage and fame, and of great renown also as that Catholic ruler who allowed, at that day, in his most enlightened liberality, perfect liberty of conscience to the settlers upon a domain as fair as that within the boundaries given to

him and his descendants, by his royal sovereign;— or that they represent the posterity of the stout Dutch burghers who laid the foundations of New York, and settled the fine territory of the New Netherlands, from the ocean, along the magnificent river of Hudson, to many miles beyond the mouth of its tributary, the Mohawk. While these different stocks were being planted, in the course of the diffusion of European population over America, another set of emigrants came to her shores — a body of men and women whose high moral worth, and peaceable spirit, won for them, at once, from the savage possessors of the country, where they disembarked, their confidence and affection. These people brought neither arms in their hands, nor the passion to use them if they had been there, disdaining, as they did, all success that could only be secured by the use of weapons of war, and preferring to rely rather upon the mild influences of that religion which proclaimed peace and good will to all men, barbarians as well as civilized. While their courage was not that displayed by the warrior, or the man of strife, they had yet, in an eminent degree, that rarer quality of bravery which is shown by doing right according to God's law, in the face of all men. These were the Quakers, the cotemporaries of William Penn, and his companions, rather than followers, in his journey towards the sunset to take possession of the domains granted to him by his sovereign, Charles II., and the Duke of York, Charles's brother, by their respective charters of alienation.

Among those who shared the voyage of Penn and concluded to cast his fortunes in the new commonwealth ceded to his friend, was Joshua Clayton, who at his death left sons, John and Joshua. John also left two sons to survive him, James and John. James's posterity was five sons, the eldest of whom was Dr. Joshua Clayton, President of the State of Delaware, at the close of her first period of sovereignty under the constitution of August, 1776, and her first Governor under that of 1789; he was the father of Thomas Clayton, who represented this State with great credit, at different periods, in both Houses of Congress, and shone with exceeding lustre as an able and upright Chief Justice of the Court of Common Pleas from 1828, when he took his seat there, until January, 1837, when he resigned his office, under the new Constitution, as Chief Justice of the State, to accept a Senatorship in the Congress of the United States. The youngest of these five children of James Clayton was originally named George, but his brother James dying shortly after his father, and when George was a mere infant, the name thus lost was restored by being conferred upon George, who became James. This James was the father of the subject of this memoir. His mother was Sarah Middleton, of Virginia ancestry, whose maiden name was bestowed upon this her son, and he was christened John Middleton Clayton. John Clayton, a brother of Joshua, the father of Thomas, and James the father of John M., was a distinguished character, having been an active political personage in the colonial and later times;

Judge in Admiralty under the Constitution of 1776; Sheriff of Kent at the period of change to the new form, and Associate Judge of the Court of Common Pleas until his death.

James Clayton (formerly George), was born on the 24th day of March, 1761, married to Miss Middleton on the 18th of August, 1791, and died on the 24th day of November, 1820, leaving his wife (who died on the 23d of June, 1829, at the age of fifty-five years, three months, and fifteen days), and six children, to survive him; Lydia, who married John Kellum, of Accomac county, Virginia; John M.; Harriet, who became the wife of Walter Douglass, who died in 1824, and afterwards of Henry W. Peterson, since deceased; Elizabeth, who died unmarried; Mary Anne, who was the wife of George T. Fisher, who survived her and died in 1831; and James H. M. Clayton, who died unmarried in 1837. These sisters and this brother of John M. Clayton all died in his lifetime, only one of them, Harriet, having left any issue now alive, and but one other of them, Mary Anne, ever having had any issue.

John M. Clayton was born at Dagsborough, in the county of Sussex, in a house standing, until within a few years, upon an ample lot of ground lately owned by Mr. John Hazzard, who was the proprietor of a hotel, which he kept himself, at the south end of it. The parents of young Clayton must have been uncommon persons. They were both well-formed, and the husband large like the rest of the old Clayton

stock. I have seen them in my childhood — his mother very often; his father a few times. He was truly a stalwart man, with an imposing appearance, and she of the full feminine size, and with features of striking and distinguished fashion. Added to all the essential qualities for a wife and mother of a very talented family, she possessed great refinement of manner in society, and also a rare fluency of speech, which she transmitted to all her children — there not having been one of them who was not remarkable for fine powers of conversation. James Clayton shone in society for his breadth of information and depth and strength of mind, and also for those qualities of the heart that endear men to each other — generosity, benevolence, sympathy constantly expressed. And then he was so manly, so above any of the petty feelings or purposes that mar the characters of men. This is the testimony of his acquaintances, as I have heard it from the mouths of some of them. He was a great reader, as his son has told me — his favorite authors being the English classics, so called to distinguish them from their less successful and accomplished rivals in the literary field; and he has frequently spoken to me about his father's passionate fondness for Shakespeare's plays, and of his remarkable memory of their text. In fact, he has said to me more than once, that his father was the best Shakespearian he had ever known. He was very fond, was this excellent man, of the society of his cherished friends; and upon occasions

of their re-union, such as village life affords, would give himself much effort to make all happy around him.

As soon as young John was qualified by age to leave home for school, he was sent to Berlin, in Worcester county, Maryland, to attend upon an academy there; but the quarters where he was put to board proving not suited to his liking on account of a deficiency in the quantity of food given the boarders, he and another boy, James Davis (a son of Isaac Davis, afterwards Judge Davis of the old Supreme Court), ran away, and walked all the way to Milford, where their respective parents then resided — James Clayton having removed to Kent whilst his son was at Berlin. He was next sent to Lewes, where he remained for some time, boarding with a kind, motherly, old lady, who treated him like a son. From thence he was brought to Milford for instruction — the schools there having greatly improved, and here he remained until the 24th of July, 1811, when at the time precisely of his arrival of the age of fifteen years, he entered Yale College, and thence graduated on the 12th day of September, 1815, with the highest honors of his class. I have heard him often speak of his college days whilst I studied in his office; and he enjoyed, with a zest impossible to describe, the reminiscences his conversations with me evoked. He was full of fun of all the kinds enjoyed by college boys; and being, at a very early age, a good performer on the violin, was sought after by the students, and was

friends with all of them whose society he desired to cultivate. But of all his companions none stood so high in his affections as a little fellow, a year behind him in age and studentship, George McClellan of Philadelphia, afterwards the famous surgeon, and the father of the present Governor of New Jersey. I have seen the two together whilst Clayton lived at New Castle; and it was entertaining, to a degree I cannot give you any adequate idea of, to be present when these two brilliant men, greatly distinguished in their respective careers, forgot all their rank and consequence in what a great poet calls a *reviviscence* of their college life — those school days which Thackeray, speaking from his affectionate and tender heart, calls "the happy, the bright, the unforgotten." If you could have heard them without seeing them, or knowing who they were, you would have thought two schoolfellows had met a year after their graduation at college And yet they were both men of matured years and honors, upon whom the public had given judgment as men of the highest abilities in their several walks in life.

Upon his graduation young Clayton returned home for relaxation, having been hard at work in college for four years, and never having given himself enough vacation to return to his family. Coming back to Delaware at the close of 1815, and intending, as his father did, that he should be a lawyer, he was, some time not long afterwards, entered in the office of his cousin Thomas Clayton, and studied under him until

March, 1817, when he returned to New England to attend the then famous law school at Litchfield, Connecticut, where he remained for a year and eight months, studying, as I have heard him say, sixteen hours a day. Upon leaving there he finished his course in Kent, and was admitted to the bar at Georgetown, in Sussex, at the October term, 1819, of the Court of Common Pleas, when he was but a little over twenty-two years of age. He selected Kent as the county in which he should begin his professional life, and took an office near the court-house, in Dover, in the eastern end of what is now the dwelling of the Hon. John A. Nicholson.

Now commenced a career at the bar which up to that time had never been paralleled in this State, nor has it been equaled since. Clayton at once rose to a very high rank as a lawyer. Nor is this wonderful when you consider the qualities for success the young man had. Treating as one of them personal appearance, it must be admitted that here nature had given him all that could be desired — a tall, commanding, thoroughly well-developed figure, six feet one and a half inches high, with a handsome countenance moulded in the style befitting great characters, and with an air of dignity, softened by that indefinable expression of the human face that shows a gentle heart in the breast. The proportions of his figure were correct also. This fine stalwart frame was surmounted by a head of ample size, measuring just twenty-four inches in circumference. Other portions were in like accord

with symmetry. And then, without the least trace of foppishness, or particularity about dress, he yet never appeared in any company, at any time, arrayed otherwise than as became gentlemen of his day, when such as he were careful to dress themselves as comported with their rank and station in life. Such was the figure of this young aspirant for professional success, when he appeared at the bar of Kent. His other qualifications were, a fine collegiate education at a famous seat of learning; an unusual preparation, by study and training, for the bar; extensive historical and literary information; remarkable powers of analysis and of illustration; quickness of perception, amounting almost to intuition; ardor and industry in the pursuit of his client's business; a grace, and at the same time force and power, of manner; and ease and fluency of utterance. All these combined gave him, in the very outset, advantages which he speedily and thoroughly turned to the best account for himself. Superadded to the whole was an unaffected and winning cordiality of recognition and intercourse which completely captivated all who came within the circle of his acquaintance. Thus equipped by nature, and by a thorough knowledge of the principles of his great profession, and endowed also with a memory which never forget anything worth remembering, his attractions as a lawyer were very great; and it is not to be wondered at that he entered, almost as soon as he had the right to open his mouth in court, upon a business at first remunerative, but which before long attained the fullest

measure of abundance and profit at that day. In addition to his fine legal knowledge, he early developed extraordinary power as an advocate. Upon him fell (what I may call) the most desperate cases at the civil and criminal bars; and it is safe to say, that when it was possible for any lawyer to *win a case*, as the slang of that time was, or *to succeed*, as the phrase now is, he was always the *victor in the contest*. It seemed only necessary for success that he should be employed — his power over juries being so irresistible. I do not, in any sense, mean to say that he controlled juries (the judgment of twelve honest, intelligent men is not to be controlled in this State, at least, by any man, how great soever his influence), but I do mean to say that he had a way of presenting to the jury the facts of his own side and also of the other (for if these had not been laid before the jury in their full strength, he supplemented the deficiency by his candor), that drew them *in spite of their teeth* (I feel that I may say), or of their tenacity of opinion, to adopt the argument his fertile mind presented them with, and also the conclusion such argument required. This was entirely natural. Here was a man of extraordinary powers in all respects — not the least of which, by any means, was that of looking into the very thoughts and purposes of men. It was just such a lawyer, possessed of such uncommon powers, that every plaintiff and defendant wanted. Every plaintiff, or defendant, in a lawsuit, wants a lawyer on his side, who combines two qualities — one that of being well

versed in the law, and the other that of being a good advocate of the interest of his client. I have in my mind, now, some desperate cases of crime, where, before the trial, conviction was considered only to await the end of it, and yet the felon escaped, or with a verdict greatly modified from the demand of the prosecution; and this, although the court sometimes seemed to feel itself compelled, by way of resistance to what appeared to it to be too great an influence with the panel, to stigmatize the offence in very strong terms. Nor was he, by any means, less fortunate in the trial of civil cases. He had the *prestige* of success, although his competitors at the Kent bar were, at that time, no less celebrated men than Henry M. Ridgely, Thomas Clayton, and Willard Hall. With such antagonists he contended; and, for a young man, but lately entered upon a stage, where they maintained the highest standing, it can with truth be said that he achieved a success, as their competitor, which he could not have done, had he not possessed abilities of the very first order. This career increased in brilliancy until he attained a fame, throughout the State, which, long before he entered upon another and no less distinguished course in life, called for his services in the other counties in nearly all the most important cases that arose therein — though the practice of going the circuit had been, well nigh, abandoned by the leading lawyers, when he came to the bar.

The death of his father in 1820, though a very trying event in the life of his son, for he had the greatest

respect and affection for him, was probably an important element in his rise to distinction. He was not naturally industrious, in the common sense of the term, but was rather inclined to ease — though his college and law student life would seem to show the contrary — and required an incentive to work. Such incentive death gave him (his father's fortunes having been overwhelmed by the great disasters that befel the country about 1820) in the necessity of providing for the support of a mother, two sisters, and a brother, with the latter to educate. This was just the stimulus such an one required; and it was this apparent calamity that proved, there can be no doubt, of the greatest benefit to him. Here was a young man, of splendid abilities, natural and acquired, with habits of study that made it easy enough to work, but still who was not required to make any great effort for success. The necessity, however, of providing for his mother and her orphan children inspired him; and day and night, continually, he wrought for them, until he was secure from all risk of being embarrassed any longer. He toiled at his profession, in every branch of it, legal and equitable, civil and criminal, enjoying nothing else but the society of his friends and the weekly visits he paid the loved ones at Milford, whither he went every Saturday afternoon, walking (when the weather would permit) sixteen miles of the distance to the home of his brother-in law and friend Walter Douglass, who would forward him to Milford, where he would cheer the hearts of all by his pres-

ence, affectionate manners, and bestowal of the surplus earnings of the week, large or small. I have often heard him speak of those days, and relate the infinite delight it gave his heart to convey so much pleasure by these visits.

When young Clayton had been but three years at the bar, but after he had acquired enough by the law not only to enable him to take care of those left to him, but of a wife as well, and not until he could offer himself to her with entire pecuniary independence also, he proposed for the hand of a lady and heiress, Miss Sally Ann Fisher, daughter of Dr. James Fisher, who was a physician of distinction and general intelligence, at Camden, in Kent, and whose first wife, the mother of Mrs. Clayton, was a McClymont, of a large Presbyterian family, seated near Dover. On the 12th of September, 1822, the young couple were married at Middletown, in New Castle county, by the Reverend (afterwards Dr.) Samuel Brincklé, now deceased, who was chosen for the ceremony because he was the brother of Joshua G. Brincklé, a fellow-practitioner with young Clayton, and whom he fondly loved. The newly made husband and wife, a few months after their marriage, took the dwelling and office of Henry M. Ridgely, upon the green in Dover (he having retired temporarily to the country); but in the interval, between the marriage and the occupancy of the Ridgely property, they resided in her own house in Camden, to and from which place he walked every day, giving himself six miles exercise, to refresh him after the

labors of one day, and recruit him for those of another. In this Dover residence were born unto them two sons; and there occurred that fatal calamity, the shadow of which never passed from his life, nor was its presence ever entirely unfelt. His love for his wife was the greatest passion that ever influenced him. While to others she was a lovely woman, of most affectionate heart, and with just enough of the Quaker, in the blood she had inherited from her father, to give to all her actions, expressions, and emotions, that delicate softness, so near akin to shyness, which characterizes the daughters of the Society of Friends, she yet possessed for him something more than all this; something that made him, by no means given to emotions, worship her almost as an idol. On the 18th day of February, 1825, she died in his arms, leaving him with two boys, the youngest but a few days old. Life, from thenceforth, seemed to have, for him, no attractions; but for the necessity of taking care of those who had been committed to him before, and the children his wife had given him, he would have sunk, utterly, under the load of his affliction. The duties of life, however, pressed upon the heart of the brave man, and exacted from him that he should not give himself up to grief absolutely, but should devote himself, as he best could, to the service of those dependent upon him. With this spur he started again in the race and work of life; and it was a frequent expression with him, in recurring to that sorrowful time, that nothing but work in his profession saved

him. And work he did, like a hero. It was his only salvation. There was nothing for him but the abstraction of thought from grief, that work — hard, engrossing, honorable labor — can give. But, to that love for his young wife, he remained perfectly, absolutely true, throughout the whole of his subsequent life; and never, under any circumstances, allowed himself to think of himself otherwise than as her lover. There came a time, whilst he was still young, when he no longer had any of the family of his father about him — one of the orphan sisters having married, another died, and then his mother, and finally his brother — and he had every inducement, which ripe manhood and the importunity of friends could offer him, to take a wife; but he repelled, sometimes sternly, and always firmly, all advice to marry again He would not think of it, though almost absolutely alone, having none about him but his two small children, and one young girl, his niece, and her brother, younger than herself, the children of Walter Douglass. He did the best he could with and for them; he was to them father, mother, and everything else that was loving. Such was the situation of Mr. Clayton (except that his mother outlived that event a few months), when he was elected to the Senate of the United States. Before entering upon a consideration of his career as a public man, or politician and statesman, I will say more of his professional life.

There cannot be any question that John M. Clayton was a lawyer of the very first grade in every branch

of learning, whether legal or equitable, civil or criminal. He came to the bar prepared by a course of unremitting study of all the old authors, and the modern text writers down to his time. In the days of his pupilage for his profession, the requirements for admission to the bar were not only a full course of reading, including always Coke upon Littleton, Plowden, Wood's Institutes, Doctor and Student, and other recondite works relating to matters of civil concern, but also Hale and Hawkins in the criminal list of authors, and such works upon equity as had then been written. Besides, as the custom of creating entails, and strict settlements, was still very much in vogue in Delaware, and had been from her settlement by the English under Penn, it was then essentially requisite that a lawyer should be a master of all the learning of such, and of that large class of interests which then, more than now, arose out of the provisions of the many wills written in conformity with the practice at home which the settlers imported here. Some of this latter was what is called *black letter;* it was all abstruse, and not to be acquired fully but by one endowed by nature with a strong mind, improved by ample learning, classical and otherwise. I feel that I hazard nothing in saying that Mr Clayton had mastered all this learning; that he was familiar with what is called *nisi prius* law also; that he had a special aptitude for professional practice; and if there can be a union in any one man of all that is necessary to make a great lawyer, it existed in him. In addition

to all this, he was a conscientious lawyer in every sense. He was faithful to the court, whom he enlightened by his learning, and true to his client. All his addresses to the court were conceived in a spirit of respect and confidence; he approached them as those set over him, strong as he was — regarding them as the personal representatives of the whole people, or State, in the sovereign duty and prerogative of administering justice. All his engagements for his clients were faithfully and willingly performed; and how successfully, the records of the courts show. Their cause at once became his cause; whatever effort he could make for the most influential of his clients, or for those to whom he was bound by the strong ties of friendship, was put forth for the humblest also who sought his services. If those who applied to him had any case, he quickly saw it, and as ardently espoused it. And what the measure of that ardor was, those can testify who remember him in court, and some who served under him as students. Having been in his office a year beyond the usual term, from my nonage, I know a good deal of what I am speaking; for although his public, political engagements as a Senator then absorbed most of his time, yet there was some of it given to the law. I have said, before, that he was not, naturally, an industrious man, as that term is understood; but he was a man of tremendous working power, and when required by the necessity of the service he had undertaken, or that of sustaining his reputation or fame, he was the most resolute and inex-

haustible laborer I ever saw. In fact, every faculty of his nature seemed to be absorbed in the one purpose of ending with success what he undertook. At such times he had no more idea, apparently, of the likelihood that his assistant might suffer from fatigue, than if he had known him as a mere machine. I shall never forget the labor, as an amanuensis, he required me to perform at the time he was pleading to issue the great Randel case, reported in the first volume of Harrington. Most of the pleadings in that case were dictated by him, without any book before him, as he walked the floor of his private office; and many of them were read, and reviewed, and altered, again and again, before they finally passed from his critical examination. Those pleadings speak for themselves; and they were inspected, passed upon, and assailed, in one form or another, by as able men in the law as could be found at our bar, or outside of it, to perform that work, and finally settled by a bench than which no State had then a superior. Those pleadings stand as an imperishable monument of the industry and science of Clayton — for no other man had anything to do with their preparation. This case is remarkable for another thing — that up to the time when the verdict was given for his client, no finding of such magnitude, for merely unliquidated damages, had ever been rendered in the United States. As in the Randel case, so in other cases. His whole soul was, as it were, given up to them, where there was to be contest. He would think, or talk, of nothing else; you must listen

to him about his case, or question, or leave him. It made no difference who approached him, unless their own business required to be attended to in some way, he would talk of the matter then in hand. Whether this was a natural relief for an "o'erfraught" mind, or that he sought to extract opinions from others to fortify or modify his own, I know not; but his cases engrossed him to the displacement of all other subjects, and discourse about them was as necessary, apparently, to him, as the nourishment of food. And yet this was not true at all times, for when his mental travail over a case had ended by his thoughts being properly matured about it, he gave no more attention to it out of the court-house; and hence, he sometimes appeared to be careless or indifferent, when the contrary was to be expected. He had, however, worked the matter out in his thoughts, and there was nothing more to do before the trial.

The influence of Mr. Clayton with juries, to which I have referred, was very extraordinary. Certainly no man this State has ever produced was his equal with a jury, common or special; and the first living man among us,* although his fine intellect is now clouded by age, said to me, years ago, when contemplating his character as a public man and jurist, that he did not believe a jury lawyer superior to Clayton had ever lived in this country. His powers were, certainly, extraordinary, and consisted as well in the examination of witnesses as in the discussion of the facts proved.

*James A. Bayard, since deceased.

Whatever a witness knew on his client's side, he was sure to bring out, and with the best effect, framing his questions so as to refresh his memory where it was weak, as also to furnish him, when needed, with language that would best convey his thoughts. His witnesses were never afraid of him, as some men's are, his manner being so reassuring; and he never failed to extract from them, sooner or later, in his examination, all they knew. When he had done with them, the cross-examination that followed rarely produced any contradiction, or discrepant statement — so well had he, by his consummate art of preparing the witness for it, shielded him from assaults by the opposite counsel. A bad examination in chief lays a witness sadly open to the assaults and artifices of the adverse counsel; but he never made one: when he handed his witness over to his adversary, that witness not only had his story perfectly in memory, so that no *tripping* was possible; but he had kept him, if a timid man, so long engaged, as to give him an assurance that enabled him to resist all attempts afterwards to confuse him. Such a lawyer is of great service to inexperienced witnesses — who, often, make a bad figure, from being in the hands, at first, of counsel not having the address and art necessary for their due preparation to meet what sometimes degenerates into brow-beating upon the cross-examination. When, however, the duty of taking in hand an opposite witness, and sifting his testimony in chief, came to him, it was a treat to see him perform his work; and woe be unto that witness

if he had told a falsehood, misstated a fact, or if he sought to conceal one important to be brought out. There was no escaping his efforts to get at the true facts. A witness might be ever so smart, and subtle, or cunning with his answers, sly in his suggestions, or bold in his assertions; sooner or later he was compelled to disclose what he knew, and qualify what he he had said that was calculated, if unexplained, to mislead the minds of the jury. This was accomplished, partly by his general manner, partly by the communication in which he put himself with the witness, by his special effort for the occasion, and greatly to the discovery a witness soon made, that there was no use in trying to escape him. The ordinary arts of confusing, by rapid and irrelevant questions, were no part of his enginery: his was a treatment better calculated to answer his purpose, and not excite the sympathies of the jury for the victim's distress. When an unfair witness left the stand, he knew that he had been drained thoroughly of the real truth, but felt no resentment against him who had found out everything. There were, however, times when a falsifier, or prevaricator, had to be dealt with; and then he subjected such an one to a terrible ordeal. It was then a case which required something more than gentle treatment; it demanded an earnest, vigorous, unyielding contest for the victory, and such was made. There was no use in fighting him with boldness, or endeavoring to elude him by ingenious artifice of answer: the truth had to be spoken, or the witness passed from the battle with

his statements so battered by the blows the cross-examination had inflicted upon them, that they had no weight with the jury. I have been witness, as perhaps some present have also, to many of those encounters between this lawyer and hostile witnesses, and they always resulted in his triumph.

When these cases before juries came to be presented by counsel in their addresses, the court-room was sure to be filled, for everybody knew there would be a great treat for them in listening to the trial. The greater the case, and the more prominent his opponents were, the greater the interest; for then his superior powers would be evoked. When he was in active practice, but towards the close of it, there were other strong men at the bar than those of whom I have spoken. They were his juniors, professionally (and most of them otherwise), but still he could by no means *walk over the course* in his practice. It was against these men that he was called upon to do battle for his clients. He had no weak adversaries, I assure you. They were of the best to be found anywhere, and in the highest rank among us. When such were his antagonists, then the interest was overpowering. The engagement was a real one — not at long range, as senatorial conflicts have become, since the fashion arose of reading orations addressed virtually to an audience outside the chamber, with only the words *Mr. President* now and then uttered to remind you that a debate, nominally, is in progress; but a hand-to-hand contest, in which every intellectual and

popular quality was brought to bear upon the twelve men in the box. How many of us have enjoyed such scenes — if we *could* not divest ourselves, wholly, of the partisanship our admiration, respectively, for the several individual actors excited! But while these foemen of his were fine speakers, ready with their resources, which were copious, and able and earnest, and insinuating too, in their appeals to the jury, he, it must be confessed, outshone them all. His grand appearance, in all his full stature and expression of face, his perfect knowledge of every fact having the least relevancy to the case on trial, his excellent temper, ingenious appropriation of every unwitting expression of his opponent to the interest of his client's side, thus producing sometimes, and pardonably, that irritation of the opposing counsel so advantageous sometimes to his adversary, his masterly array, or marshalling, of the facts on his own side, and placing them in juxtaposition with those of the other side, subject to all the disparaging comments upon their weakness, or want of congruity, his candor would allow him to make, and his splendid voice, matchless copiousness, elegance and force of language, and perfect powers of illustration, were something that all men remember who witnessed or heard them, and which as yet, in Delaware, have never been equaled. He had hardly been at the bar a year before his fame as a lawyer and advocate became well known. I remember to have heard him say that at a very early period in his professional life he was employed by the Abolition Society of Pennsylvania to assist the

then Attorney-General, James Rogers, himself of great distinction at the bar, in the prosecution, in the county of Sussex, of a notorious and desperate kidnapper, Joe Johnson. Others have told me how greatly he distinguished himself on that occasion; in fact the case is mentioned frequently for one particular feature of the trial — the fainting upon the stand of a false witness to prove an *alibi*, under the cross-examination the young lawyer gave him. Afterwards he occasionally went out out of the State to engage in cases — two, notably, of indictments in Maryland for murder. From my observation of him, and of others, I feel I can say, unqualifiedly, that he was more familiar with the rules of evidence than any one I have ever known.

In January, 1837, Mr. Clayton retired from the bar, and accepted the office of Chief Justice of the State, tendered to him by his friend, Charles Polk, Governor at that time by virtue of being Speaker of the Senate, upon the death of Governor Bennett. As a judge, he could not have had a superior, in any respect — when all necessary to make such is considered. I have spoken of his legal learning. He had that in full measure. It is the chief qualification. Besides this, he had the quickness and acuteness of perception of which I have spoken. He had also great patience to hear, an assuring manner to the diffident, entire freedom from prejudice or passion, and an impartiality remarkable in one so fresh from bitter political contests. In fact, as a judge, there could be found no fault in him. All approached the trial of their cases with a certainty

that nothing but justice would be dealt out by the court where he presided; and the young practitioner was soon assured that there were no favors to be awarded to any that were not common to all. It was only where he thought that counsel were arguing beside their case, that he ever interrupted them — having no necessity to make a display of learning, which weak men feel sometimes in the course of trials. He resigned that place after having held it for a little more than three years, and no writ of error was ever taken from any of the court's decisions in his time. During this career a celebrated indictment was tried — for blasphemy — in which, with great labor and research, he brought forward all the law upon that subject. How well he sustained his reputation, any competent critic can discover, by reading that case at the end of the second volume of Harrington's Reports.

Upon the retirement of Mr. Clayton from the bench his professional life virtually ended, although he, occasionally, took part in important cases. He was sought after in almost every one of note; but only engaged in those where personal friends were interested, or some other strong motive impelled him. Such a motive influenced him to accept employment by the Government in its controversy with the State of New Jersey, over the title to the Pea Patch Island — in which service he had, as an associate, the very distinguished lawyer to whom I had reference before — the Hon. James A. Bayard — for whose talents Mr. Clayton felt the highest admiration, and towards whom, personally, he ever

entertained the warmest feelings of friendship. They were strong friends — with a love for their State, a pride in all that concerned her, and a belief in the justice of the title she had ceded to the United States, that knew no faltering. These two men took up the case of the Government founded upon Delaware's title, examined into every phase and detail of it, both of law and of fact, searched every book or parchment that industry, or money, could open to them, and made up and presented an argument, partly out of the mouth of one and partly out of the mouth of the other, which, for thoroughness, ability, and skill of arrangement and detail, has never been surpassed in this country. It is all reported by the late Reporter of the Supreme Court of the United States — John William Wallace — and can be found among the documents of Congress.

This case is, I believe, the last in which Mr. Clayton appeared as a lawyer; and he was put upon his mettle in the preparation and discussion of it, one of his competitors being George M. Bibb, of Kentucky, who had filled the office of Chancellor in that State, that of one of her Senators in Congress, and was reputed one of the ablest jurists in the country. This famous case was tried in Independence Hall, in the city of Philadelphia, in the Select Council chamber, before the Hon. John Sergeant, a distinguished gentleman of Pennsylvania, selected as an arbitrator by both the contestants, and known everywhere for his great legal learning and ability, and was attended by

an appreciative audience. The discussion of the great questions involved, was pronounced by the eminent referee to have been the ablest to which he had ever listened. When it closed, and the counsel to support this State's title left the chamber, there passed from before that referee two men who, for power and sagacity of intellect, and learning in their profession, had no superiors in America. I am aware this may seem extravagant praise; but it is not. I am only speaking of them as you, who are capable of judging, will sanction.

Here I might close my history of the career of the subject of this memoir as a lawyer — omitting all reference to many cases in the courts illustrative of some of the traits he possessed, and to many anecdotes, of interest only to professional men. But I do not think I should omit to say something that will be, perhaps, new to them, about his mode of studying cases. Most lawyers, when a question with which they are not perfectly familiar is presented, resort at once to their books, relying upon text writers to furnish them, directly or indirectly, with all they need, to answer it. His course was the opposite. He studied the subject first, in his mind; and when he had come to a conclusion upon the question of it, he resorted to books of authority to support his reasoning. If they did not do it, he modified his own views by the authorities. He rarely, however, found them to be at variance with his own previous judgment; this was owing to his ample early training, of which I have spoken. When

the variance was irreconcilable, his loyalty to the law not only demanded of him that he should bow to the majesty of its authority, but that he should be sure he was required to do so at the time; and this made necessary an examination of the cases, a task that evoked all his untiring powers of mind and body. I know, full well, what they were.

Such, as I have briefly, and all too feebly, presented it, is the history of John M. Clayton in his legal life. I now pass to the consideration of his public, or non-professional life.

His Political Life.

At the time when John M. Clayton was admitted to the bar (October, 1819), there can hardly be said to have been any parties in the United States. The second election of Mr. Monroe was about taking place, and that without any opposition over the country. There had been a very strong sentiment of hostility between the Federal and Democratic parties, that had kept alive all the fierce passions that political warfare excites; but the triumph of the national arms made those who favored the war with Great Britain so strong before the people, that the Federals were fain to give up their opposition to the majority, with the best grace they could. Accordingly they made no organized opposition as a national party to the first election of

Monroe, and at the second, that of 1820, there was nowhere, but in one State, any opposing ticket. The successful close of the war of 1812, and the approval by President Madison of the re-charter of the Bank of the United States, had deprived the promoters of political differences of all ability any longer to foment party dissensions and keep alive the spirit that sustains them. When Clayton came to be in a situation, therefore, to take part in political strife (if he had a taste for it), there was no ground for difference of opinion, nor any hope, if there were, of success in taking a stand upon it. Accordingly, he did not attach himself to the Federal party, to which the Claytons adhered from habit, nor did he concern himself about the small matter of the success of particular men at elections. I have every reason to believe that he was wholly indifferent to the result of the elections, whatever it might be. He had something more to do than give his mind and thoughts to the contests of men for places. There being no principle at stake, he had no work to perform in the political field. Still, he voted, and at the election of 1820, stood with those who were striving to promote what they conceived to be essential reforms in the affairs of the Federal party. It was at this election that he cast his first ballot. But he had, nevertheless, before this time, in fact before he came of age, attracted the attention of leading men of the then dominant party (the Federal) in the State, and was elected Clerk of the House of Representatives at the sessions of 1816.

1817, and 1819, and of the Senate in 1820, the year of the success of the reform, or independent ticket — which he had voted. He was continued in the latter office for the following years of 1821 and 1822. There was a Federal party still in the ascendant in Delaware at this time, but it existed merely by force of habit — men being the issue, and not principles. At the session of 1821 he was appointed Auditor of Accounts by the Legislature, — an office of great responsibility, though not always filled with the most competent men, — and held that place for two years, when he resigned it. All this time he was working hard at his profession. When he resigned the auditorship he ceased to have any official place, and so continued for six years. However, in 1824, at the close of the second term of Mr. Monroe as President, the people were required to decide who should succeed him. A variety of names was presented for their selection. General Jackson, the hero of New Orleans, John Quincy Adams, Henry Clay, William H. Crawford, and other distinguished men were named — all Democrats: no man offering the name of a Federalist, for such had no strength anywhere outside of New England, which, at that time, was not so important a section as, now-a-days, we are required to believe that it is. In Delaware some espoused the cause of one of these worthies, and some of another, and there was a strange commingling of antecedent discordant elements. Clayton's family and many old friends voted for Adams, as did a large number of the old Democrats; but he him-

self took no part in politics — not even voting that year or the next. The result, as all know, was that there was no election by the Electoral College; and the House of Representatives, acting under the Constitution in such a contingency, chose Adams. This result was treated by all Adams' opponents as the fruit of a *bargain* between him and Clay (or rather the friends of each), for their mutual profit. It had color, from the fact that Clay was made Secretary of State; but we now know that there was no bargain, or understanding whatever, upon the subject of Clay's promotion. This, however, was not so understood at the time, and the friends of General Jackson made good use of the charge in the memorable campaign of 1828— when there was a political conflict indeed; and adversary met adversary, armed with all the weapons of party warfare, and fired by all the spirit such strife creates.

In the interval between the Presidential election of 1824 and that of 1828, Clayton filled the office of Secretary of State, first under Samuel Paynter, who was Governor in 1824, and afterwards under Charles Polk, elected in 1827 — his selection by the former, being in lieu of Henry M. Ridgely, who had resigned to take a seat in the Senate of the United States (made vacant by the death of Nicholas Van Dyke, and partially filled by the gubernatorial appointment of Daniel Rodney), showing that he had not, to that time, evinced any disposition to become a party leader — else so strong a friend of General Jackson, as was Governor Paynter, would would not have taken him

as his counsellor. At the same time that Samuel Paynter was Governor, Mr. Clayton was elected a member of the House of Representatives of this State, and served with distinction in the office of a legislator — considered in those days one of such importance that the best ability in the State, legal and otherwise, was sought for, in making out the tickets. By this time, all traces of difference of principle between the old parties, Federal and Democratic, having entirely faded, the names themselves alone remained, and men yet clung to them from old association, and for want of some general cause of difference in sentiment to abolish them. They were furnished with this in the contest of 1828, which was waged solely between the friends of General Jackson, who took his name and became Jackson men (or Jacksonites, as their opponents preferred to call them), and those of the incumbent, John Quincy Adams, who called themselves Administration men, and were called by their adversaries Adams men. In this memorable struggle there was a bitterness of feeling, a fell spirit of hostility, that had never before been experienced, nor has ever been felt since, except perhaps during the war with the South. But for one material fact, it would be impossible to account for all the rancor the campaign of 1828 exhibited; for there was no question of foreign or domestic policy upon which men need divide, nor had any great constitutional question arisen to challenge the attention of the people, such as the alien and sedition laws, in the lifetime of the incumbent's father; or the re-charter of

the United States Bank, which had been settled by the Supreme Court, and sanctioned by a Democratic President. And the "times," to use the familiar language of the past as well as the present, were not so *hard* as to demand that the cause of it should be laid on any body. The tariff of that year had only begun to work. The country was doing well; business was reviving and prospering under a return to specie payments, and the prospective operation, as its friends claimed, of the new customs law. What, then, was the cause of the phenomenal acrimony which distinguished that campaign? It is to be found, and found alone in the fact that men discovered that they had new adversaries to fight, and they of their own household. A struggle for power, and the offices that, not long after, were claimed to be its *spoils*, was so managed by the artifices that skilful tacticians always have at command, that men were drawn into the ranks of the opposition, or of the administration; and, as all old party lines were obliterated with the cessation of the reason for them, it happened, naturally, that both the new factions (for such only they then were) were composed of the disintegrated elements of the old parties, and men in each found themselves face to face in opposition to those whom they had before called their party friends. That, of itself, would not necessarily excite rancor; but when we take into account and consider the strong personal, but, for harmony's sake, smothered, feuds that grow out of party association, where one man or one set of men must always have more power and influence than

another, or others, to the latter's discomfiture, we can understand why it was that such strong passions were exhibited in the strife for the Presidency in 1828. Superadded, was the supporting circumstance, that one side was seeking to place at the head of affairs, a candidate alleged by his opponents to have no qualification for the office, except for that one of its duties which had never been exercised elsewhere than in the Cabinet — that of commander-in-chief of the army and navy. The traditions of the country, as well as the practice of parties, all being against the promotion of military men to civil power, the administration party treated the subject in the same light as if there were a constitutional inhibition against the selection, and waged a war against General Jackson which emblazoned upon its banners coffin handbills, and the effigies of Arbuthnot and Ambrister swinging in chains in the swamps of Florida. On the other hand, the friends of Adams were constantly assailed as ungrateful to one who, by the victory of New Orleans, had saved the country from re-subjugation by the British, and as the supporters of a scheme of "bargain and sale" for the Presidency, which was then denounced with all the same epithets of fraud and corruption that we have had ringing in our ears with respect to Southern Returning Boards on the one hand, and revelations of cipher dispatches on the other. In truth there was, from this intermixture of elements in 1828, a gigantic family feud — an internecine war — all the more deadly in its malignity, because of the

opportunity it afforded for suppressed jealousies and cruel disappointments to avenge themselves justifiably. These were the feelings in Delaware, as well as elsewhere, and they found expression in that memorable campaign. I shall never forget that time, though I had not advanced far in my teens. The feeling it engendered extended into households and disturbed their harmony, and into religious societies also, so that men could hardly go through the forms of worship, side by side. Everybody in Delaware was compelled to take sides; and Mr. Clayton, feeling, as others did, that the duty of patriotism called upon him to declare for one side or the other, enrolled himself with his kinsman, Thomas Clayton, and their numerous friends, in the ranks of the administration; while their old party associates, the Ridgelys, Bayards, McLanes, and Rogerses, espoused the cause of the opposition. As the old Federal party, to which they had all belonged, was the dominant State power, of course the question, which was made by the new order of things, was, who should rule the State hereafter; which of the leaders of the old party? All these men were politicians; all were in the prime and vigor of life, and ambitious of the control, by their party, of the affairs of the State; and all were men of the first ability also. The administration party succeeded. Delaware gave her voice for Adams; and a majority of her Legislature was upon his side. This result was not attained without a severe struggle all over the State, in which Clayton took a leading part, and first displayed his surpassing powers

as a popular orator. He also, with his friends, made strong personal appeals to their old party associates to unite with them in opposition to General Jackson — many of whom, dissatisfied on account of the dissolution of their old party, and caring nothing for the questions between the new ones, only yielded to their solicitations, after finding out that others whom they disliked, politically or personally, had gone to the other side. I have heard him relate a very amusing anecdote illustrative of this strange state of things — the point of which was that one individual, notwithstanding all the arguments and appeals addressed to him, was not able, at the end of a day's mental travail, to come to any decision, until it occurred to him to inquire what side a certain person, whom he thoroughly hated, was on; and being answered that he was a Jackson man, swore that he then was an Adams man. How many men are there, now-a-days, who have any better reason to give for what is called "the faith that is in them"?

The administration men, or Adams men, being in power at the legislative session of 1829, and the time of Henry M. Ridgely having expired, John M. Clayton, at the age of thirty-three years and a few months, was elected a Senator for the term of six years, beginning with the then next ensuing fourth day of March, his competitor being Mr. Ridgely. He took his seat in the Senate on that day at a special session of that body, called, as is usual, at the beginning of a Presidential term, and witnessed the inauguration of Andrew Jackson, who had defeated President Adams

by a large majority in the Electoral College. Then may be said to have commenced his political career; for the campaign of which the ceremony of that day was the result, was the first in which he took any prominent part. He had, in truth, no inclination for such contests as those in Delaware had been in his day, up to that time — mere struggles for supremacy without any real principle at stake — though he had voted, as before said, in 1820, and at intervals afterwards. When he entered the Senate he found himself to be the youngest member of that body; and, with the exception of his colleague, he knew none of the Senators personally, and perhaps none of them had ever heard at all of him, unless in answer to inquiries always made, when a new member is to be joined to the body, to find out what standing he has in his State as a man of talents. There were then in the Senate, or entering it with him, some of the greatest men this country has ever known — men whose renown for patriotism and ability was, in their day, enough to satisfy the most craving ambition, but which since then has increased in fulness until those worthies occupy the highest niches in the temple of fame in America. Daniel Webster, ~~Henry Clay,~~ Thomas H. Benton, Felix Grundy, Hugh L. White, John Holmes, Asher Robbins, John C. Calhoun, Edward Livingston, and Robert Y. Hayne were there, besides others worthy to be ranked with them, in the list of strong men in intellect, and pure minds as statesmen. Some of these heroes had made a study of the service of politics (I speak of

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Clay was elected Senator March 4, 1829, when Jackson was inaugurated, and took his seat December 1831

politics in its broad sense as a philosophical system), and were skilled in all the learning of the past with respect to public government, including especially a knowledge, perfect in all respects, of the constitutional history of the United States as a Federal body, and of the several States, composing the whole, in their colonial relations to each other and to the mother country. And they had, most of them, all the benefit which can accrue from frequent discussion, where every one found his equal. Into this society entered Delaware's young Senator, modest, unused to the scene before him (for he had never even seen either House of Congress in session), but possessing within him those qualities which fitted him to take his part of the duties his high station cast upon him. And he knew that he possessed those qualities. What man of real power does not? By this time he had attained his full physical proportions. The traces of sorrow for the loss of his wife had disappeared, leaving in their place an expression of repose which, superadded to the fine intellectual lineaments of his commanding countenance, his clear complexion, and large gray eyes, attracted the attention of all who met him. It was clearly apparent that here was a remarkable man; large size, fine figure, fair complexion, handsome features, a countenance full of intelligence, a manner gracious and familiar, but dignified also,—all proclaimed him an extraordinary person before he had opened his mouth in the presence of his brother Senators. His social qualities, consisting of ease and freedom of man-

ner, exceeding powers of conversation, amiability of disposition, that consideration and respect for others which never would allow him to be guilty of the ill-bred and vulgar habit some have, of interrupting conversation in order that their own small selves may be heard; gracious recognition at all times and places of all with whom he had acquaintance — all conspired to make him not only a great favorite with his mess, but with all whom he met, or with whom he was thrown in company. It has always been the testimony of those at Washington who knew him, that he enjoyed a greater personal popularity than any other Senator: and any here present who knew him in his public day, can readily understand why he was so. Social intercourse with John M. Clayton was a great pleasure, which all could enjoy; for, surely, no man was so accessible, and none took such pains (though all unobserved by his visitor) to render their communion agreeable. While he talked himself, and was fond of doing it (for he had an overflowing mind that could not be restrained from expression), he would yet ever contrive to lead the conversation to some topic familiar to his guest, or auditor, and draw him out to take his part in the discourse; and thus impress him with a most grateful thought — that he had contributed his share to an entertainment, where he only expected to be a recipient. Everybody left him fully impressed that he was not only the most agreeable great man they had ever seen, but the most interesting also — for he really knew immensely of many things,

and something of almost everything. In all my long experience of him, beginning in May, 1831, and ending only with his life, I never knew any subject of conversation started about which he did not seem to have a great deal of accurate knowledge. A great reader, with a mind that could be interested in any useful subject, and a memory which preserved most tenaciously all that mind required it should retain, it is no wonder that he had such general information. Other men, no doubt, were equally well-informed, and some perhaps better — for there are magazines of a mental kind where all knowledge is stored — but it was more than rare to find one who was so willing to hold converse with others, and possessed withal such fluency and beauty, besides simplicity and ease, of expression. No wonder, I repeat, then, that he so soon became a favorite with his brother Senators. His presence and manner were not to be resisted, and during the years that followed, when he felt it, oftentimes, to be his duty to deal in unsparing terms of denunciation with what he thought to be corruptions in the public service, or usurpation of power by the the Executive, or arrogation of authority by false interpreters of the Constitution to render nugatory valid acts of Congress by State ordinances, he yet retained the personal respect of all with whom he differed, and challenged their admiration, for his ability and oratorical eminence.

Debate on Foot's Resolution.

At the first session of Congress after Mr. Clayton's appointment to the Senate, that of December, 1829, we find him engaged in the debates upon some of the subjects of most prominent interest before the country, such as the Public Lands, the Graduation Bill, the Appropriation Bill, and (on the 4th of March, 1830) on the celebrated resolution of Foot, of Connecticut, which furnished the text for the greatest debate that ever occurred in that body.

The resolution itself was one of inquiry, simply, about the public lands; the proper disposition of them; and the policy, generally, with respect to them. But, like many other small subjects on other occasions, it gave rise to a debate which occupied many weeks, and was participated in by all the leading men of the Senate; it having drawn within its vortex almost every subject that divided parties, and elicited the best argument that could possibly be made in favor of nullification — or the annulment by a State of an act of Congress, which, in her judgment, is not authorized by the Constitution. The topic of the resolution was, of course, discussed very thoroughly, because of its general importance; but the attention of the country was specially drawn by the introduction into the debate of a question which had been raised very soon after the Government was founded — which question was, the remedy for a State, or States, in case of enact-

ments by Congress, which in their judgment were "deliberate, palpable, and dangerous exercise of other powers" not granted by the compact. The country was confronted with a question of such momentous importance; and patriots everywhere looked with the greatest concern upon the contest. The chief representative of the doctrine of nullification was Robert Y. Hayne, of South Carolina, a man of the first order of ability; and his chief opponent was Daniel Webster, who, with the possible exception of Alexander Hamilton, was the greatest of our long list of distinguished public men. Of commanding presence, gigantic mind replete with knowledge of all that the debate required, and an action and utterance in entire harmony with his majesty of intellect, he was the master of the Carolinian in the end — though it is not to be denied by any, that in him he met a "foeman worthy of his steel."

It is not my purpose to quote any part of the remarks of either champion in this memoir, for it would be impossible to do justice to them, by such citations. It is enough that almost every one read at the time, or has since gone over, the speeches themselves in full; and that all understand that the verdict of the nation was for the argument of the "Great Expounder," as he then came to be called. The verdict remained undisturbed practically until there was an attempt, begun in April, 1861, to reverse it by force of arms.

Into this great debate John M. Clayton entered,

as I have said, on the 4th of March, 1830, and delivered his views at great length upon three of the subjects discussed — public lands question, the Executive power of removal, and the right claimed for a State to take her case into her own hands. He had then only had three months experience of Senatorial life — the special session of March 4, 1829, having been confined to executive business, and the first regular meeting for legislation having taken place on the first Monday of December of that year — but he displayed an amount of knowledge with the first and second of these subjects, and skill in their discussion, that astonished all his friends, and attracted the attention of all men in public life. It was, at once, seen that he was destined to make a great figure in the Congress of his country; and this reconciled his political opponents in Delaware to his election — for it is a feature in the character of our people, that they have great pride in the fame of a distinguished fellow-citizen, no matter what his politics. The other subject — the constitutional one — was most ably and thoroughly handled, and the argument made against the State power was unanswerable; which appeared, among other ways, by the admirable illustration he made to show what would be the effect of establishing the doctrine asserted by the nullifiers.

The question of the power of the President to remove a public officer, not a judge, without cause, was thoroughly treated in this speech, which was conceded, on all hands, to be as strong a protest, by argument,

against it, as had ever been made; but with reference to that question, it accomplished nothing more than to put the subject, to use a frequent expression of his, "in a proper point of light." Whoever will read his argument will find it full, frank, and exhaustive. He referred to the discussion, and the result against his views, in a debate, hereafter noticed, which occurred twenty-six years afterwards, and when the country had come to regard (alas for its welfare!) the offices as "spoils" of victory, with which a successful party might enrich itself. This speech was delivered before the last and greatest speech made by Mr. Webster in the debate; and at the time of its delivery Clayton was six months less than thirty-four years old; and before that time he had been engaged in executive session in the debate on the removal subject, as appears by a speech of Mr. Barton, of Missouri, from which the injunction of secrecy was removed.

Corruptions in the Post-Office Department.

In the very first week of the next session of Congress, commencing in December, 1831, Mr. Clayton introduced his celebrated resolution to inquire into the abuses of the Post-Office Department. This inquiry imposed upon him a herculean task. It was surrounded by difficulties which seemed, at first, to be insurmountable, the more especially as the whole over-

whelming force of the Executive and his party, seconded by as strong a partisan press as ever was known in the country, was unceasingly directed to suppress the inquiry, to misrepresent and distort the facts which it elicited, and to crush those who had engaged in it. During this short session, as the investigation proceeded, the advocates of the department and of the party in power endeavored to embarrass the committee by a resolution of the Senate absolutely ordering the suppression of so much of the investigation as tended to expose the causes for which faithful public officers had been removed from office. This drew from Mr. Clayton one of his most labored efforts in the Senate of the United States, in a speech then delivered. The proscription by the Administration, in that day, astonished and shocked many of its warmest supporters, by the extent, and, as some characterized it, the ferocity, with which that system was carried out. Proscription for opinion's sake was then commenced, and has since been continued by every party that has gained possession of official patronage But removals from office were then deemed acts of private oppression, inflicted by the iron hand of power, especially when, as in some cases, attacks upon private character were made to justify the displacement of the incumbent. Against what Mr. Clayton considered this system of tyranny, he urged unceasing warfare. He and his political friends denounced what they charged was a proscriptive system generally, but especially in reference to the Department whose affairs it was their duty

to investigate. At this critical period the machinations of Mr. Van Buren had caused the first rupture between General Jackson and Mr. Calhoun; and at this period also, the opponents of the Administration first commenced that movement, which was finally successful, the object of which was to draw Mr. Calhoun and his friends in opposition to the strong will which was, relentlessly, crushing all opposed to the Executive. The following, taken from the speech of Mr. Clayton, presents us with the first instance of the attempt of the minority to call in the aid of the Southern champion, who afterwards himself became so distinguished an opponent of all the arbitrary measures of General Jackson, as they were then stigmatized:

"But it will soon be seen whether there be not *one* man in this nation able to breast its terrors (the terrors of President Jackson's Administration) whenever the President hurls its thunders. There are hawks abroad, sir. Rumor alleges that the plundering falcon has lately swooped upon a full-winged eagle that never yet flinched from a contest, and, as might be naturally expected, all await the result with intense interest. It is given out, that the intended victim of proscription now is one distinguished far above all in office for the vigor and splendor of his intellect,

——'Micat inter omnes
Velut inter ignes luna minores.'

One who has been a prominent member of the party which gave power to our modern dictator, is to feel the undying vengeance which can burst forth, after

the lapse of twelve years, for an act done or a word said in a high official station and under the solemn obligation of an oath. But if that energy and fairness which have hitherto characterized him through life, do not desert him in this hour of greatest peril, we may yet live to see *one*, who has been marked out as a victim, escape unscathed even by that power which has thus far prostrated alike the barriers of public law and the sanctity of private reputation. In the meantime let it not be forgotten that the injuries inflicted by that proscription which levels first at the office and then at character to justify the blow, is not less severely felt because the sufferer has not moved in a splendid circle. The 'beetle that we tread upon may feel a pang as great as when a giant dies;' and, looking at the case to which I have alluded, may not the hundreds who have felt the sting of unmerited reproach, fairly invite the sympathies of others who are now made the objects of an attack not less unmerited and unrelenting in its character than that which *their* humbler efforts may have been unable to resist?"

During the many incidental discussions in which Mr. Clayton was engaged during this session, Isaac Hill, of New Hampshire, volunteered a written speech, which he read at great length in his place in the Senate, in defence of the alleged abuses of the Post-Office Department, and in it made a personal attack upon the members of the committee who were engaged in the inquiry; and for this he immediately received what may even now be called a castigation as severe perhaps as any ever administered to a mere servant of power.

The investigation for this session, though half suppressed by the party vote in the Senate, terminated in a complete triumph for the committee. Enough was developed to awake the attention of the public. Thirty-six forgeries in one public document were discovered — forgeries manifestly made, too, for the purpose of transferring all the odium for the grant of some of the most indefeasible *extra allowances* to mail contractors for party purposes, from the shoulders of the Postmaster-General, who was in truth totally unconnected with these frauds. Mr. Clayton persevered in his exertions to expose the abuses of this Department during both the succeeding sessions of Congress, and never intermitted his labors, until, despite of all efforts made by opponents, the most stupendous system of fraud and peculation, and bribery and corruption, was at last exposed and laid before the nation, that, up to that time, had ever stained the career of any administration in this country. Not satisfied with this, he devoted himself to the reformation of the Department, and was the first man who ever pointed out the true remedy for these abuses. In one of his speeches in the year 1834, after inviting the attention of the Senate to the enormous amount of *secret service money* annually expended by the Postmaster-General, without control or check — after showing how, by means of this secret service money, commonly called in the reports of the day, the *incidental* expenses of the Department, immense sums could be annually lavished to subsidize the public press, and for other unworthy uses,

without the danger of detection—Mr. Clayton gave it as his opinion that the only mode of effectually arresting the evil was to bring the Department under the control of Congress, as the Constitution directed it should be. He showed that, from the very origin of the Government, this Department had been unconstitutionally administered; that its revenues were part of the treasure of the nation, and like all other public money, could not be withdrawn from the Treasury without an appropriation made by law; that it was the duty of Congress to make annual specific appropriations out of the revenues of the Post-Office, as well as the other revenues of the country, to meet all the necessary expenditures of the Government; that from the origin of the Government to that day, a period of more than forty years, Congress had been unmindful of this sacred obligation, permitting the Postmaster-General annually to disburse millions of the public money without warrant of law, and at his sole pleasure and caprice; that the secret service fund, which was originally but a few hundred dollars, had, by this abandonment of the constitutional duty of Congress, now swelled to more than one hundred thousand dollars per annum, and might with equal propriety at any time be raised to a million; and that, besides these incidental expenses, Congress was then annually called upon to appropriate out of the Treasury of the nation a sum of one hundred thousand dollars to defray, what was called, the *contingent* expenses of the Department. He proposed to reform the Department altogether, — to make it

responsible, and subject it to the scrutiny and control of Congress, without whose check the frauds he had exposed would be repeated with impunity, as often as corrupt or careless men should come to the control of this branch of the Government. This important suggestion was afterwards adopted by Congress, and the triumph of Mr. Clayton and his friends over those whose abuses he had exposed, was completed by the passage of a law providing for the thorough reorganization and reformation of the Department.

From the year 1832 to December, 1836, Mr. Clayton, although employed in professional life during the recess of Congress, was engaged to a greater or less degree in the discussion of the leading topics of public and political interest then agitating the country. The period of his Congressional career was the most stormy that had occurred in the history of the Republic. More questions of vital importance to the people were agitated between 1828 and 1837 than during any other equal number of years preceding. At the time of the passage of the Bank Bill in 1832, Mr. Clayton was one of those who most ardently and anxiously advocated the preservation of the currency, and the financial system of the country. He opposed all innovations and experiments upon them; and when President Jackson's veto message was under consideration in the Senate, he delivered a speech in opposition to the veto, which was afterwards a thousand times quoted as conclusive evidence that his political friends of that day foresaw and foretold all the distress and ruin through

which the country passed in the course of that decade. Here is a part of what he said, in discussing the veto message; and it will appear, in reading it, how statesmen of later days have, in their advocacy of a stable system of finance, profited by his thoughts and the language in which he clothed them:

"I ask, What is to be done for the country? All thinking men must now admit that, as the present bank must close its concerns in less than four years, the pecuniary distress, the commercial embarrassments, consequent upon its destruction, must exceed anything which has ever been known in our history, unless some other bank can be established to relieve us. Eight and a half millions of the bank capital, belonging to foreigners, must be withdrawn from us to Europe. Seven millions of the capital must be paid to the Government, not to be loaned again, but to remain, as the President proposes, deposited in a branch of the Treasury, to check the issues of the local banks. The immense available resources of the present institution, amounting, as appears by a report in the other House, to $62,057,483, are to be used for banking no longer; and nearly fifty millions of dollars in notes, discounted on personal and other security, must be paid to the bank. The State banks must pay over all their debts to the expiring institution, and curtail their discounts to do so; or resort, for the relief of their debtors, to the old plan of emitting more paper, to be bought up by speculators at a heavy discount. The prediction of Mr. Lowndes in 1819 must be fulfilled, 'That the destruction of the United States Bank would be followed by the establishment of paper money, he firmly

believed — he might almost say he knew.' 'It was an extremity,' he said, 'from which the House would recoil.' The farmer must again sell his grain to the country merchant for State bank paper, at a discount of from ten to twenty, or even thirty per cent., in the nearest commercial city. The merchant must receive from the farmer the same paper in exchange for all the merchandise he consumes. The merchant with his money must purchase other merchandise in the cities, and must often sell it, at an advance on that price, to the farmer, of twenty per cent., to save himself from loss.

"The depreciation of the paper thus operates as a tax on the farmer, the merchant, and all the consumers of merchandise, to its whole amount. The loss of confidence among men; the total derangement of that desirable system of exchanges which is now admitted to be better than exists in any other country on the globe; overtrading and speculating on false capital in every part of the country; that rapid fluctuation in the standard of value for money which, like the unseen pestilence, withers all the efforts of industry, while the sufferer is in utter ignorance of the cause of his destruction; bankruptcies and ruin, at the anticipation of which the heart sickens; must follow in the long train of evils which are assuredly before us. Where then — where then, I demand to know, sir, is the remedy to save us? In a Government bank — a branch of the Treasury — without stockholders or property — without the power to issue a dollar of paper, or to loan a dollar of any kind — without the ability to deal in exchanges, except so far as may be necessary for paying its officers to stand behind the counter — controlling the State bank emissions of unsound currency only by

refusing to take their notes in payment of the custom-house bonds, when the Executive may think them about to prove refractory at an election."

How exactly was all this prediction fulfilled to the very letter!

The Compromise of 1833.

During the whole of his Congressional life, Mr. Clayton was the constant advocate of the protective policy; and so deeply was he convinced of the necessity of maintaining and preserving that policy, that in the famous debate on the Compromise Act in 1833, he declared that "he would pause before he surrendered it, even to save the Union, dearly as he loved, and highly as he prized, the latter." He took a more active part in the advocacy and passage of that bill than any other man in Congress, with the single exception of Henry Clay. Indeed, Mr. Clay, in a debate in the year 1836, publicly ascribed the passage of that law to Mr. Clayton — without whose exertions, he said, it could not have been enacted.

Of the vital importance of the passage of this act, at the perilous crisis when it was discussed in Congress, we can judge only by referring back to the thrilling events which were cotemporaneous with it. South Carolina had openly, in solemn convention, passed her ordinance of nullification. Her State troops were organized, and a new military system adopted by

her, for the avowed purpose of active resistance to the tariff law of 1828. Officers of great talent, including among others that gifted gentleman and chivalrous and intrepid commander, General Hamilton, were selected by the State authorities to lead the brave but misled South Carolinians to battle in defence of the ordinance of nullification. The sympathies of all the surrounding Southern States were, every day, most ardently and eloquently invoked in favor of South Carolina; and thousands of misguided and deluded men in the Middle and in the Northern sections of the Union constantly avowed their rooted hostility to the whole protective policy, and their friendship for the South Carolinians, whom they professed to consider as their oppressed countrymen. There was scarcely a State in the Union which did not contain many votaries of the free trade doctrine, ready to aid by their personal services, or their purses, the cause of the assumed sufferers. In the midst of this (as we now know it to have been) great infatuation, the President himself, backed by all his Cabinet ministers, at the head of whom stood the Secretary of the Treasury, sought to preserve the peace of the country only by breaking down the tariff. Early in the session of 1832–3, the Secretary of the Treasury sent to the Committee of Ways and Means an Executive *projet* of a new tariff, which, with slight alterations, was adopted and reported by that committee, estimating the whole revenue necessary to be raised for support of Government at only twelve millions of dollars, and imposing duties, the average of which did

not exceed fifteen per cent. *ad valorem*. The moment this proposition, emanating from the Executive (who pending his election had professed himself in favor of a *judicious tariff*), made its appearance, the friends of home labor, as the tariff men called themselves, saw that the axe was to be laid at the root of the whole protective policy. They had witnessed, before this, with what facility the colossal power of the Executive had prostrated the Bank of the United States — whose popularity was so great at the time of the President's accession to power, that its re-charter was looked upon as unquestionable. They had seen the whole system of internal improvements crushed by the Maysville veto, and this too from one who came into power professing to be the friend of that system. They now, therefore, with good reason, viewed all these principles that upheld the domestic industry of the country, as being in the utmost peril. At the same dreadful moment, the very Union of the States was tottering to its downfall. They believed that the very first blood shed on the plains of South Carolina would be the signal for the destruction of the Republic; and they justly reasoned, that, even should the Union survive the conflict, the whole tariff policy would become odious in the eyes of the friends of civil liberty and republican government, as the existing cause of the butchery of their countrymen. In the meantime they beheld the President enraged to frenzy by the threat of resistance to his power, denouncing the South Carolinians as rebels and traitors, proclaiming their disgrace as such

to the world, and threatening vengeance against their leaders, whom he vowed he would hang, upon the commission of the first overt act of resistance to the law. At this moment Mr. Clayton avowed his firm determination to sustain the Executive in his efforts to maintain the authority of the laws; and, throwing aside, for the sake of the country, all the bonds and trammels of party, openly stood forth in vindication of the President's authority to execute the laws For this purpose he delivered a speech in the Senate in February, 1833, in support of the bill for the collection of duties on imports, in reply to Mr. Calhoun, and to Mr. Tyler, then a Senator from Virginia, afterwards acting President of the United States. In this speech he reviewed, at great length, the whole doctrine of nullification and State secession. The following passages from the speech will show the true position which he chose to occupy in reference to the Executive, at this crisis, and also elucidate his views upon various subjects and theories introduced into the debate. In the second paragraph he says:

"If a doubt had ever existed in my mind as to the course which it is my duty to pursue in regard to this measure, that doubt would have been removed by the just influence of the sentiments of those who, as the immediate representatives of the people of that State which has commissioned me to act as Senator on this floor, have fully expressed themselves in certain resolutions, a copy of which is now before me. These resolutions, in substance, declare, that the Constitution

is not a treaty or a mere compact between sovereign States, but a form of government emanating from and established by the people of the United States; that this Government, although one of limited powers, is supreme within its sphere of action, and that the people owe to it an allegiance which cannot, consistently with the Constitution, be withdrawn by State nullification or State secession; that the Supreme Court of the United States is the only and proper tribunal for the settlement, in the the last resort, of controversies arising under that Constitution and the laws of Congress; that in cases of gross and intolerable oppression, for which the ordinary remedies to be found in the elective franchise and the responsibility of public officers are inadequate, the remedy is extra-constitutional — resistance and revolution. The language of our people, as expressed by their representatives, touching the fatal delusion pervading the ordinance and legislation of South Carolina, is that while they entertain the kindest feelings towards the people of that State, 'with whom they stood, side by side, in the war of the Revolution, and in whose defence their blood was freely spilt,' they will not falter in their allegiance, but will be found, now as then, true to their country and its Government; and they pledge themselves to support that Government in the exercise of all its constitutional rights, and in the discharge of all its constitutional duties. These resolutions, proclaiming as they do the sentiments of gentlemen of all political parties, do not instruct me to adopt them as my political text-book, but leave me, untrammeled by any mandate, to follow the course which my own judgment may dictate in relation to the whole subject.

"But, sir, my sentiments were no secret to the

people who spoke thus by their constitutional organ, the legislative body. When principles directly repugnant to these were first advocated within the walls of this chamber, though fresh in my seat here, my voice was raised against them. The first effort that was ever made here to support the present Carolina doctrine of nullification by a State Convention, made by the gentlemen from Tennessee (Mr. Grundy), now a happy convert to much of my political catechism, and sustained with a degree of ability which has hardly been surpassed in this debate, was opposed by me while feebly pressing the adversary principles now inculcated in the declaration of Delaware, to which I have adverted. It is my business, sir, to reassure that honorable member of the truth of his new articles of faith; and to tell him, too, that however unfashionable these tenets were at the time of our ancient controversy, there is now no other mode known among men whereby he can be politically saved.

"It has so happened, sir, that the principles with which I entered public life, and with which, by the blessing of God, I will live and die — the same principles for which I and my political friends have been contending during the whole period of my service in the Senate, have been discovered by the President, in this perilous crisis of our public affairs, to be the only truly conservative principles of the Constitution. As one of those who have steadily but unsuccessfully opposed what in my conscience I believe to have been usurpations of Executive and State power — doctrines leading to the present disastrous results, as I have often predicted, in reference to the veto message of the last session, and the whole course of our recent national policy towards the State of Georgia — true now,

sir, to the same principles, I find myself by a sudden revolution in the sentiments of the Administration on this subject, anxiously supporting its very strongest measures. At the same time, I find the President, without the aid of those friends with whom it has ever been my pride to be associated in the political divisions which have agitated this body, sustained only by a very small and hopeless minority of the American Senate.

* * * But my support of this measure (alluding to the reason given by Mr. Wilkins, of Pennsylvania, for his) is predicated on no servile submission to any Executive mandate, on no implicit and unlimited faith in any man. I will clothe the Executive with all constitutional power necessary to secure the faithful execution of the laws, and the preservation of the Union. I will confer stronger authority on the Chief Magistrate, because I can find no other chance of salvation for my country; and I will not be deterred from the adoption of this measure by any consideration of the source from which it has emanated, or because an unworthy reason has been advanced by others to sustain it. Whatever beauties the chairman may discover in this part of his own argument, whatever foreign missions or splendid offices may now glitter in the vista to dazzle and delight the visions of others, I see and wish to see no prospect of political advancement, arising out of this sudden revolution in Executive opinion, for any member of that proud opposition which has so long and so stubbornly maintained its lofty independence of character, and so triumphantly vindicated the cause of constitutional liberty in the halls of the Capitol of this country. If it be true that, in the honorable discharge of our sacred duty here, we have committed the sin, hitherto deemed unpar-

donable, against that being who is so prominent an object of the humble adoration of others, let that sin remain unexpiated by any atonement which we now have to offer; and should political death be the punishment to be inflicted upon us for our transgressions, let us at least perish hoping nothing from the smiles, and fearing nothing from the frowns, of Executive power.

"Nor, sir, as I trust, will any man here who has ever justly laid claim to the honorable title of 'National Republican' (the party name of the opposition at that time) be prevented from giving a liberal support to this bill, by the general denunciation of it as a Federal measure. We well know that this same ingenious stratagem has been resorted to for more than thirty years, alternately to elevate or depress the leading demagogues in this country. The best possible plan to escape the force of reason, is to appeal to the ignorant prejudices of mankind. One who has engaged in this debate traces, by the aid of the most marvellous powers of combination and deduction, the origin of the nullifying resolutions of Kentucky, in 1798, and their kindred resolutions of Virginia, adopted in the same era, to the old Federal party! An ingenious modern writer, sir, has derived the word 'cucumber' from 'Jeremiah King;' but even his praises might well remain unsung, while the superior ingenuity of the author of this charge against the men of other days, should, by bard and minstrel, be celebrated in Hudibrastic lays for the admiration of the world The Kentucky resolutions, which gave birth to the whole heresy of nullification, are entitled to no respect, whether we consider the time of their adoption, or the mere object for which they were drawn. They were written by a

candidate for office, in a period of high party excitement, for the very purpose of securing his own election. They were well calculated to intimidate political opponents by the threat of ultimate disunion in the event of his defeat, and as such they were denounced by many of the other States, at the time and in the strongest language. They slept on the shelf after they had done their office, without an effort on the part of anybody to vindicate the principles contained in them, until after the lapse of thirty years, when they were awakened by the trumpet of discord resounding again throughout this happy country. I say, sir, that no considerable effort was made to defend them, or their revolutionary principles, from 1800 till the passage of the tariff act of 1824. Yet they were assailed and denounced in the hearing of the very men who, if they had been deemed defensible, ought to have been the first to stand forth in their defence. In the debate on the Judiciary, in 1802, Mr. Giles, of Virginia, having barely so far alluded to the subject as to mention the determination of the Federal Courts — that they are judges in the last resort of the constitutionality of your laws — to prove what he called their unlimited claims to power, was promptly met, in reply, on the whole question by Mr. Bayard, who indicated the true principles of the Constitution against the then recent and arrogant pretensions of State usurpation, by whatsoever name it may be called — State veto, State interposition, or State tyranny. Entrenched behind the very principles we now advocate, he threw the gauntlet to any champion on the other side who might choose to venture in defence of the doctrines avowed in those resolutions. Sir, no one then appeared in the lists to accept that challenge. The resolutions, which might

have been fairly claimed as covering the whole ground of this part of the debate, were not even named, much less defended, or held up as authority, by any one. They had served their purposes, sir. The party that framed them was seated in power, and it was their interest to neglect and despise them."

In a subsequent paragraph, recurring to the subject of the resolutions, he says:

"In opposition to all the authorities, honorable gentlemen quote the Virginia resolutions of 1798, and the report on them of 1799. Mr. Madison, who has lately explained a report of which he was himself the author, is considered by them as not now understanding what he himself wrote; and we are told that Virginia alone can expound what she meant by her resolutions. While I utterly deny her right to expound for the rest of the world the Constitution of the United States; while I hold lightly even her own resolutions, drawn and sent out, as I shall ever believe, chiefly for their political effect in a pending contest for political power between herself and another section of the country; I say to her representatives here, if she meant in 1798 or 1799 to deny the power of the Supreme Court, and arrogate to herself the authority to decide, in the last constitutional resort, on the laws of Congress, or the Constitution of the United States, she has repealed her resolutions by still later resolutions in reply to those of Pennsylvania in regard to the Olmstead case. My honorable friend from New Jersey (Mr. Frelinghuysen) has shown us that when Pennsylvania proposed in 1810 to amend the Constitution by appointing an ar-

biter between the decisions of the States and the General Government, Virginia, by an almost unanimous vote of her Legislature, in answer to the proposition, referred Pennsylvania to the court as the only arbiter, and recognized the very principles against which one of the Virginia representatives (Mr. Tyler) is now contending. Be it the part of others to attempt to exonerate her from the charge of inconsistency at these different periods — that is no task of mine. I think with the Senator from Maine (Mr. Holmes), that when she has been in power, as she was in 1810, she has generally been a safe expounder of the Constitution; but that her political expositions, made when out of power, and struggling to obtain it, as she was in 1798, should form no laws for others, as we know they have been disregarded by herself. The Senator from Virginia really endeavors to nullify the resolutions of his own State, in reply to the proposition of Pennsylvania.

Mr. Tyler having said in the course of his speech, "I deny that I am a citizen of the Government of the United States." "I do not deny that I am a citizen of the United States," Clayton replied:

"It is no part of my purpose to bandy useless metaphysical distinctions with any member here. He is as much a citizen of this Government as a Frenchman is a citizen of the Government of France, or an Englishman of the Government of his country. But all the acknowledgment I desire of the honorable gentleman, in order to compel him to admit the justice of the principles upon which this bill is founded, is that he and all those upon whom the bill is in-

tended to operate, are citizens of the United States. When the gentleman has made that admission, in vain will he contend that his obligations to Virginia are higher than those which he owes to the Federal Government; in vain will he contend that his most valuable rights are best secured to him by the State. Were Virginia the separate nation which his argument would make her appear to be, her citizens would soon find the difference between that protection which they now enjoy as citizens of our common country, and such protection as she could give them. High as she now justly stands among her sister States, forming, with them, an impregnable bulwark for all our countrymen against foreign aggression, she would, single-handed, make but a very sorry figure in a contest with any considerable foreign power.

"Sir, were it not for sheer compassion toward some of those gentlemen who indulge us, so often, with extravagant declamation about State power and State supremacy, it would be well to ring the truth daily in their ears, until they are cured of these diseased imaginations, that neither the Old Dominion nor even the Empire State, herself, could singly and successfully measure strength with one of the second-rate powers of Europe. The gentleman from Virginia, who has filled his present station with so much honor to himself and usefulness to his country, denies that he is a Senator of the United States, and asserts that he is only a Senator of Virginia. He denies the very existence of such a character as that of a Senator of the United States. Each member here, in his view, is bound to legislate for his own State, and can represent no other. But where is the clause in the Constitution which recognizes a Senator of Virginia,

of Delaware, or any other single State, in this hall? This is not the Senate of Virginia, but of the United States. The honorable member says that he acts here only in obedience to the wishes of Virginia; that he yields obedience to this Government only because Virginia wills it. The Constitution and laws of the United States have no binding force with him from any other cause than this — that Virginia commands him to obey them. The result of all this doctrine is, that whenever Virginia wills it, he will violate this Constitution, and set these laws at defiance. In opposition to all this, hear the creed of a National Republican: I obey this Constitution, and act as a Senator of the United States under it, because I have sworn to support that Constitution. I hold myself bound, while acting in my station here, to legislate for the benefit of the whole country, not merely for that of any section of it; and in the discharge of my duty, I will look abroad throughout this wide republic, never sacrificing the interests of any one part of it to gratify another, but always dealing out and distributing equal justice to all my countrymen wherever they may be located, or by whatever title they may be distinguished from each other.

Closing his speech, he said (referring to Mr. Calhoun):

"The honorable Senator from South Carolina has told us that all human institutions, like those who formed them, contain within themselves the elements of their own destruction; and that our Government is now exhibiting their operation. To this general philo-

sophic remark, I should not have objected but for its application. All the works of man are destined to decay; but while the American people shall remain true to themselves, their Government cannot be destroyed; for it contains, within itself, endless and ever renascent energies, which must bring it out in triumph, and with Antæan vigor, in despite of every effort to overthrow it. From foreign force it has nothing to fear: it dreads nothing now from any section of this Union which shall seek to prevent the just operation of our laws by foreign intervention. Yes, sir, a foreign alliance, sought by any member of this confederacy, for the purpose of making war upon us, would be the means, under Heaven, of immediately rallying every patriot, of every political party, under the broad banner of the Republic. Popular virtue, however, is the only safe basis of popular government. This is the 'fountain from the which our current runs, or bears no life'; and I concede that the mortal blow to the liberties of this country may, at last, be struck by the hand of one who has been indebted to it for existence. The shaft which shall stretch the American eagle bleeding and lifeless in the dust, must be feathered from his own bright pinions; and bitter will be the curses of men, in all ages to come, against the traitorous heart and the parricidal hand of him who shall loose that fatal arrow from the string!

> "'Remember him, the villain, righteous Heaven,
> In thy great day of vengeance! Blast the traitor
> And his pernicious counsels, who, for wealth,
> For power, the pride of greatness, or revenge,
> Would plunge his native land in civil war.'"

By the aid of himself and most of his political friends the bill for the collection of duties on im-

ports became a law; and its passage was looked upon, by the trembling friends of republican government throughout the world, as the signal for civil war. It was at this moment — big with the fate of the Government — that Mr. Clayton bent his whole energies upon the passage of the Compromise Bill prepared by Mr. Clay, as the only means left of saving the Union of States, and that protective system without which, as he thought, that Union was robbed of its greeting blessing. It is understood that while the bill was yet sleeping on the files of the Senate, he privately incited Mr. Clay to renewed and more vigorous action in its behalf. He convened a meeting of such of his brother Senators as were impelled by the same motives that actuated him, to decide that question, which had now become of such thrilling importance to the whole country, whether any, and, if any, what part of the then existing tariff should be surrendered for the preservation of the Union. No man whose name had ever been mentioned in connection with the Presidency was admitted to that meeting. Neither Mr. Clay, nor Mr. Webster, nor Mr. Calhoun; but half the New England Senators, with both the Senators from this State, were among those who took part in its deliberations. They, finally, resolved that if certain amendments were adopted, to the bill, as it then stood — among which the principle of assessing the duties on imports at the *home* instead of the *foreign* value of them, was the most important and a *sine qua non* — they would vote for the bill; but that if any one of the nullifying Sen-

ators should refuse to vote for each of these amendments, or should not support the bill on its final passage, they would reject the compromise, and henceforth look only to arms as the means of restoring the peace of the country. While these things were going on, Mr. Clay moved a reference of his Compromise Bill to a committee of seven members; and the Speaker *pro tem.* of the Senate, Hugh L. White, of Tennessee, was called upon, by every patriotic consideration, to select the most efficient members of the body over which he presided, to compose the committee. He faithfully performed that duty; and by that act, if he had never done any thing else for his country, he merited the eternal gratitude of his countrymen. The members of the committee were — Mr. Clay, chairman, Mr. Calhoun, Mr. Webster, Mr. Clayton, Mr. Rives, Mr. Grundy, and Mr. Dallas. What illustrious names!

And here, it is but proper to observe, a singular incident occurred, worthy of being recorded in connection with the history of this famous act. President Jackson, who it seems kept up a constant surveillance over the proceedings of the Senate, received, by some means, a list of the members of the committee but a few moments after their appointment had been publicly announced, and immediately dispatched a message to the President of the Senate, Mr. White, demanding of him the erasure of Mr. Clayton's name from the list of the committee men, on the avowed ground that Mr. Clayton was an open

friend of Mr. Clay and his bill, and an opponent of the Secretary of the Treasury and his *projet*, then pending in the House of Representatives. Mr. White replied, that he had appointed Mr. Clayton a member of the committee solely from the conviction that he was a man of integrity and great ability, and without reference to his relations, or friendships, to others. It seems, however, that the President was not satisfied with this, and that he was resolved to defeat the passage of the Compromise Act by excluding from the committee Mr. Clayton, whose influence with his brother Senators was perfectly understood at the time. Mr. White was sent for, and attended at the Executive Mansion — the Senate having adjourned after the appointment of the committee in the evening; and until a late hour of that night the President pressed upon the presiding officer of the Senate the importance of inserting another name, in lieu of Mr. Clayton's, on the committee to which was now entrusted the fate both of the protective system and the Union of the States. To the great honor of Hugh L. White, he refused to make any change, preferring what he considered the interests of his country, to the favor of its Chief Magistrate in his palmiest days of power. He would not yield to Executive behests. He felt, doubtless, that when the time should arrive that the President could control the legislature of the country by directing the appointment of the committees, and especially upon an occasion so momentous as the present, the Constitution would virtually be at an end.

and the President substantially a monarch. He, in vain, told the President that a defeat of the Compromise Act would be followed by civil war, the shedding of American blood by American hands, and the destruction of the Union. But when his arguments had failed, he closed this midnight consultation with the avowal of his stern determination not to change the committee. Whoever is curious to look into this part of the history of the Compromise Act, will be interested by perusing the evidence taken by a committee of the House of Representatives of the United States a few years after. It was a committee to investigate the abuses of legislative power; and Henry A. Wise, of Virginia, was its chairman. In the report of that committee he will see the affidavit of the Hon. Hugh L. White, before mentioned, who was called upon by that committee and compelled on oath to disclose the extraordinary facts to which reference is here made. If he will look into the public prints of that day he will also see that, not long after the publication of the report of the committee, the President attacked Mr. White in the newspapers on account of his disclosure, alleging that there never was any personal hostility between himself and Mr. Clayton, or any feeling which could have ~~that~~ induced him to have acted such a part towards that gentleman. But Mr. White replied to him through the same channel of communication, and in the most solemn manner reasserted the truth of every word he had uttered.

The committee, as organized by Mr. White, met

again and again, without any successful results. Mr. Clayton pressed the amendments proposed at the meeting had with his friends, before referred to; *and they were all rejected*, a majority of five out of seven voting against them in committee. Mr. Clayton and Mr. Clay were the two who voted for them. After repeated meetings of the committee, it was finally agreed, by a majority of four against three, to report the bill without amendment; although every one was perfectly conscious that, unless the amendments were adopted, the bill could scarcely obtain the votes of one-third of the Senate. The enemies of the Compromise were thus far triumphant; but their success was destined to be of short duration. Mr. Clayton desiring, for obvious reasons, that Mr. Clay should assume the paternity of the whole of that great measure which he had originated, requested him to move the amendments when the bill reported to the Senate should be before that body as in Committee of the Whole. The motion was accordingly made by Mr. Clay, and a warm debate followed, especially upon the principle of assessing the duties upon the home value of articles of importation, in the midst of which Mr. Calhoun and others of his way of thinking, having declared their determination to vote against this part of the amendment as unconstitutional, Mr. Clayton arose and solemnly moved to lay the bill on the table, without any intention to call it up again during the session, — at the time avowing that the friends with whom he was acting, as well as himself, would never consent to pass the bill, while a sin-

gle Senator of the peculiar views of Mr. Calhoun refused to record his vote in favor of this part of the amendments, — that the principle of assessing the duties at the home, instead of the foreign, value, the concession of which in the most unequivocal form was now demanded from those who had advocated the nullification of the tariff, was a *sine qua non*, and unless it were conceded at this stage of the passage of the bill, they would now lay the bill on the table, where it would sleep to wake no more. At this moment several Senators from the South in vain urged that, if permitted to vote against the amendment providing for the home valuation, as they desired to do, there being a majority in favor of the principle, it would still be incorporated in the bill; and that on the final passage of the bill they would all record their votes in its favor, and thus of course for the amendment included in it. But the stern answer returned by the friends of the tariff was, that the home valuation was necessary for the protection of the industry of the people; and it was then that Mr. Clayton made the declaration mentioned — that he would pause before he surrendered the principle of protection, even to save the Union. The friends of protection demanded of those called nullifiers, before they would progress with the compromise an inch further, that they should record their votes in favor of the home valuation, at every stage in which the question should be presented — that the object of the concessions they now proposed, was to shut the mouth of every one who should offer to nul-

lify the tariff law, in all time to come — that to permit them to vote against the home valuation, on the motion to adopt it as an amendment to the bill, would be to open the door for those gentlemen to contend against it as unconstitutional, and to nullify again, when the principle came into active operation — that the votes of all the nullifying Senators and all other enemies of the tariff must now be recorded in favor of this great principle, which would secure protection to American labor in the Compromise Act, or that the bill should not live another instant after any one of them had refused to compromise on these terms.

Pending this motion, of Mr. Clayton, to kill the bill by laying it upon the table, after a brief consultation with some gentlemen from the South, the Hon. George M. Bibb, of Kentucky, himself a nullifier, requested Mr. Clayton to withdraw his motion, for the purpose of giving time to reflect on the issue now presented; and Mr. Clayton temporarily withdrew the motion for the purpose mentioned by Mr. Bibb; but avowed his determination to renew it the next morning, if the terms proposed by himself and his friends were not acceded to; and then, immediately, a proposition to adjourn until the next morning was moved and carried.

After a night's consultation, it was in vain proposed that the compromise should be passed with the final vote of all the anti-tariff Senators recorded in its favor; but that the Senators from South Carolina should vote against the pending motion to introduce the home valuation as a part of the bill. This was

sternly refused by the friends of the tariff — Mr. Clayton, with inflexible determination, persevering in his resolution to fix the bill to the table, if either of those Senators should refuse to record his solemn vote on the journal in favor of the principle; without which, he contended, the bill might be regarded as an abandonment of the protective policy, of which he never would be guilty; and he demanded the ayes and noes on the home valuation, which were forthwith ordered to be taken. The issue was thus brought home to the South in a way which could not be evaded. Those generous spirits in the Senate who had thus offered to save South Carolina from the consequences of her madness and folly, and who had thus proposed to surrender every thing but principle to avert the horrors of a civil war, and to save the blood of their countrymen, now stood at bay with the enemies of the tariff, and refused to recede an inch further; and they finally gave notice to Southern gentlemen that if, after all they had offered, the compromise should be declined by South Carolina, they would gather around the standard of the President, to suppress any infraction of the revenue laws, with the whole power of the nation, — that if war ensued, they would join the party of the Executive in voting every dollar in the treasury to enable the President to crush the rebellion, — and that they would not hesitate to insure the triumph of the laws even if they were driven to tax the people of the United States, so long as a dollar should be remaining.

Under these circumstances, the vote being called, it appears, from the journal, that every Southern anti-tariff Senator, whether nullifier or not, including both of those from South Carolina, *recorded his vote in favor of the home valuation, as well as all the other amendments now moved by Mr. Clay;* and then the question coming before the Senate on the engrossment of the bill, as thus amended, a spirited and warm debate occurred, in which Mr. Webster, with Mr. Dallas and others, opposed the bill, which was advocated by Mr. Clay, assisted by Mr. Clayton; at the expiration of which, the bill was ordered to be engrossed for a third reading by a vote so overwhelming that all further opposition to it was abandoned as hopeless.

Notwithstanding the compromise, the Executive took the earliest opportunity to show its real hostility to the tariff, even as thus arranged. It is believed that the friends of the tariff, who voted for that act, never imagined that it would be construed to abolish the whole system of *minimums* in previous laws, which constituted the surest basis of protection to American industry. Yet the Secretary of the Treasury, on the 20th of April, 1833, about six weeks after the passage of the law, issued a circular to the officers of the customs, fixing such a construction on the law as abolished the *minimums* altogether. This was the first and most destructive blow aimed at protection of home labor. There was nothing in that act to warrant it. But the Secretary, proceeding upon an arbitrary distinction between the assumed and the real value of

articles of import, without submitting the matter to the judgment of any judicial tribunal, and without consultation with any of the friends of the law, struck down at one blow all the manufactures of the country whose existence depended upon the preservation of the *minimum* principle. It was impossible for the friends of protection to bring the Secretary's construction of the act to the test of a judicial decision; because the Government, whose duty it was, as the only party interested, to controvert the Secretary's opinion, had not sufficient interest in the manufacturing system to make a case in court to ascertain the true meaning of the law. In addition to this, the party in Congress supporting the Executive, after the passage of the act, refused to pass any further act providing the details of a plan of home valuation; and every Secretary of that and the next following Administration omitted to make any Treasury regulations, in pursuance of which the duties, at the proper time, should be assessed on the domestic value of the articles imported.

This was the condition of things in 1841, when the Whigs came into power. They found that the Compromise Act had not been obeyed, as they conceived, by their predecessors, and they justly declined any longer to submit to a state of things in which one of the parties to the compromise absolutely refused to fulfil its part of the engagement. Contrary, as they thought, to its own plain meaning, and the intentions of the framers of the act, it had become the means of oppressing, instead of protecting, Ameri-

can manufactures. The Whig party therefore repealed it in 1842, by the passage of another act, which, shortly, became so firmly established in the regard of the people as not to be in any sense shaken by the ordinance of nullification. Reason reassumed her empire over the minds of our countrymen; the period of peril to the Union of the States passed away, and the protective system became again in full operation, having escaped the odium of that accusation, which would have crushed it, that it could be preserved only by the bloodshed of American citizens.

Before this important subject of the compromise of 1833 is dismissed, a fallacy must be noticed, which prevailed to a considerable extent among certain uninformed persons, that the Compromise Act did necessarily reduce the duties on imported articles, at the end of nine years from its passage, to twenty per cent. The greatest reduction of duties contemplated by the act, was that point in the descending scale where the amount collected had to be the sum necessary to an economical administration of the Government, no matter what the rate of duty might be *over* twenty per cent. That point was reached long before the passage of the act of 1842. The Government had actually become bankrupt in credit in 1840. A heavy national debt (for that time) had been incurred, to pay which no money had been provided. The Government loans were below par in the home market, and our credit was so low that foreigners refused to lend us a dollar. Yet the Administration of Mr. Van Buren, before it was

overthrown, gave no heed to another pledge in the Compromise Act, and omitted to arrest the reduction of duties, for the purpose of meeting the wants of Government. This fact shows with how bad a grace the friends of the tariff of 1842 were charged with having violated the Compromise Act of 1833.

The Land Bill.

Mr. Clayton was an active advocate of the Land Bill, which was passed at this important session of 1833. It was, indeed, a measure, the adoption of which assisted to procure the passage of the compromise itself; and may be said to form part and parcel of the compromise. So far back as the year 1830, Mr. Clayton, in his speech on the 4th of March of that year, strongly advocated the right of the old States to a share of the public lands; and, for the purpose of explaining the principles with respect to a subject so important, the following extract is copied from that speech:

"I am constrained to say that I cannot vote for this bill (the bill to graduate the price of the public lands, to make provisions for actual settlers, and to cede the residue to the States in which they lie). According to my mode of considering it, it is a proposition to give away the birthright of our people for a nominal sum; and I am yet to learn that the citizens of the Middle States have indicated any feeling in regard

to it, differing from that expressed in the vote referred to — when, with a single exception, all the Senators, representing States north of Mason and Dixon's line, opposed the measure. They do not look to these lands, as has been unjustly stated, with the eye of an unfeeling landholder who parts with acres as a miser parts with his gold. They view the new States as younger sisters of the same family, upon an equal footing with themselves, and entitled to an equal share of the patrimony; but having children to educate, and numerous wants to be supplied, they will think it ungenerous, unjust, and oppressive, should these younger sisters take away the whole. Sir, it is the inheritance which descended from our forefathers, who wrested a part of it from the British crown, at the expense of their blood and treasure; and paid for the rest of it by the earnings of their labor. It is not for me to say what are the feelings of the people of the Middle States on the subject. But it is their privilege to speak for themselves, and they will, doubtless, when they think it necessary, exercise that privilege. Yet I will say that if they entertain the sentiments of their fathers, they will never consent to cede away hundreds of millions of acres of land for a nominal consideration, or gratuitously relinquish them to any new State, however loudly she may insist on the measure as due to her rights and her sovereignty, or however boldly she may threaten to defy the Federal judiciary, and decide the controversy by her own tribunals and in her own favor. Those who are conversant with our Revolutionary history will remember that the exclusive claims of Virginia, and other members of our political family, to our public lands, were warmly resisted by New Jersey, Delaware, and Maryland, as soon

as those claims were avowed after the rupture with the mother country. The articles of confederation were not signed on the part of New Jersey until the 25th of November, 1878; although she had bled freely in the cause of American liberty, from the commencement of the struggle. One of the principal objections which caused this delay in the ratification of those articles, will be found in the able representation of the Legislature, presented by her delegates to Congress, before she acceded to the Union. 'The ninth article,' said they, 'provides that no State shall be deprived of territory for the benefit of the United States. Whether we are to understand by territory is intended any land the property of which was heretofore vested in the crown of Great Britain, or that no mention of such land is made in the confederation, we are constrained to observe that the present war, as we always apprehended, was undertaken for the general defence and interest of of the confederating colonies, now the United States. It was ever the confident expectation of this State, that the benefits, derived from a successful contest, were to be general and proportionate; and that the property of the common enemy, falling in consequence of a prosperous issue of the war, would belong to the United States, and be appropriated to their use. We are therefore greatly disappointed in finding no provision made in the confederation for empowering the Congress to dispose of such property, but especially the vacant and unpatented lands, commonly called the crown lands, for defraying the expenses of the war, and for such other public and general purposes. The jurisdiction ought, in every instance, to belong to the respective States, within the charter or determined limits of which such lands may be seated; but reason and

justice must decide, that the property which existed in the crown of Great Britain, previous to the present Revolution, ought now to belong to the Congress, in trust for the use and benefit of the United States. They have fought and bled for it in proportion to their respective abilities; and therefore the reward ought not to be predilectionally distributed.'

"And when in November, 1778, the Legislature of New Jersey determined to attach her to the Union, they did it, as they then expressed, in firm reliance that the candor and justice of the several States would, in due time, remove the subsisting inequality, yet still insisting on the justice of their objections then lately stated and sent to the General Congress. So too, Delaware and Maryland, for the same reasons, refused to join the confederation, until a still later period — the former ratifying the articles on the 22d of February, 1779, and the latter on the 1st of March, 1781. The State which I have the honor in part to represent here, had, on the 1st of February, 1779, adopted the following resolutions to authorize her accession to the Union:

Resolved, That this State considers it necessary for the peace and safety of the State, to be included in the Union; that a moderate extent of limits should be assigned for such of those States as claim to the Mississippi or South Sea; and that the United States, in Congress assembled, should and ought to have power of fixing their western limits.

Resolved, also, That this State considers herself justly entitled to a right in common with the members of the Union, to that extensive tract of country which lies to the westward of the United States, the property of which was not vested in or granted to individuals, at the commencement of the present war; that the same hath been or may be gained from the King of Great Britain, or the native Indians, by the

blood and treasure of all, and ought therefore to be a common estate, to be granted out on terms beneficial to the United States.

"But after the accession of Delaware, with this protest, Maryland still persevered in her refusal to join the confederation, solely on the ground, that she might thereby be stripped of the common interest, and the common benefits derived from the Western lands. She still insisted that some security for these lands was necessary for the happiness and tranquillity of the Union; denied the whole claim of Virginia to the territory northwest of the Ohio; and still pressed upon Congress that policy and justice required that a country, unsettled at the commencement of the war, claimed by the British crown, and ceded to it by the treaty of Paris, if wrested from the common enemy by the blood and treasure of the thirteen States, should be considered as common property.

"In February, 1780, New York made her cession, to accelerate the Federal alliance, and declared the territory ceded, should be for the use and benefit of such of the United States as should become members of that alliance, and for no other use or purpose whatever. And although Virginia attempted, for awhile, to vindicate her claim, yet other States, feeling a strong attachment to Maryland, and conscious of the justice of her representations, disliked a partial Union, which would throw out of the pale a people, standing, as Marylanders have always stood, among the bravest and most patriotic of our countrymen. The ordinance of Congress then followed, in October, 1780, declaring that the territory to be ceded by the States should be disposed of for the common benefit of the Union; and on the 2d of January, 1781, Virginia, in

that spirit of magnanimity which has generally prevailed in her councils, yielded up her claim, for the benefit of the whole Union. It is a remarkable circumstance that Maryland did not actually join the Union until after these cessions had been made by New York and Virginia, declaring at the very moment, and by the very terms of her accession, that she did not release, nor intend to relinquish, any part of her right and interest, with the other confederating States, to the Western territory. These facts, which have now become the familiar history of the country, furnish curious reminiscences in these latter days, when a new light has broken in upon us to show that the new States have title to all the lands within their chartered limits; and when we are told it would be most magnanimous and becoming in us, who claim to have imbibed the spirit and sentiments of our forefathers, to cede away our patrimony for a nominal consideration, let it be remembered that the feeling on this subject manifested by the two States of Delaware and Maryland, preventing their accession to the confederation, until so late a period, was with difficulty repressed, even by that ardent attachment to the cause of liberty for which they were then so much distinguished, and in which they have never been surpassed. Their troops went through the whole contest together, flanking and supporting each other in battle; commonly led on by the same commander; generally the first to advance and the last to retreat; their bayonets, like the pikes of the Macedonian phalanx, glittering in front of one and the same compact mass; and when they fell, they slept in death together, on the same part of the blood-stained field. It was that same spirit which prompted the combined exer-

tions of these people in the American cause, throughout the whole struggle; which also united them in resistance against every attempt on the part of any single section of the country, to appropriate, for its exclusive benefit, the territory which they were striving to conquer from the British crown. Sir, I think they will now combine again; I think they will, when considering this subject, bestow some reflection upon the millions which have been expended in the subsequent purchase of the southwestern portion of our public domain; on the sums which have been profusely lavished, in making and carrying into effect our treaties for the extinguishment of the Indian title; in making the surveys of these lands; and in the payment of officers and agents for the maintenance of our land system. From the feeling which formerly actuated them, I judge that their co-operation on this subject will be such as to resist every effort to bribe them with promises, or to sway them by means of political excitement, to give up that which could not be wrested from them by appeals to their strongest attachments in the darkest days of their adversity. They will claim, I think, sir, an equal portion of this territory, under the plain letter of the grants referred to. They may claim a large portion of it, by the paramount title of the right of conquest, which has never been by them relinquished; and by that title they can successfully defend it. Whatever foundation there may be for the imputation of motives, in other sections of the Union, to flatter and to woo the West, by the offer to her of this splendid dowry, if she will transfer her influence to a candidate in a Presidential election; we, I believe, shall not take part in any such bargain. The gentleman from Tennessee (Mr. Grundy) says the

West has been already wooed and won. It may be so; but we are not, and, I think, shall never be, *sub potestate viri;* and if we could be bought for any consideration to sign this release of our birthright, we should never agree, like Esau, to sell it for a mess of pottage."

He again spoke, that same year, in opposition to the Graduation Bill, while it was before the Senate. When Mr. Clay first reported the Land Bill to the Senate, Mr. Clayton advocated the printing of an extra number of copies of the report, which he then pronounced to be the ablest and most important that had been submitted in either house of Congress since he had been in the public councils, On all occasions he was found prominent among the supporters of that measure. In his speech on the 8th of February, 1836, in favor of the national defence, he thus alluded to the passage of that bill. The extract is quoted because it states a most important fact in the history of our legislation, which was not generally known at the time, and is perhaps known now to but very few, but which Mr. Clayton had the best possible opportunity of knowing, as he was an actor in the scene to which he refers:

"It has been further said that the object of the resolution is to defeat the bill to distribute the proceeds of the sales of the public domain among the States, according to their federative population. But such cannot be the effect of adopting a liberal scheme

of national defence, really adapted to the wants of the country. The land bill itself provides that no part of the money which it proposes to distribute, shall be disposed of, according to its provisions, in case of war with any foreign country; and it never has been any part of the object of the friends of that just and salutary measure to divert one dollar of the public treasure from the object of necessary defence. The passage of that bill could have had no such effect. As a sincere friend of that bill, I do ardently desire that it may, at some future time, receive the action of Congress, under more favorable auspices. At present, I cannot shut my eyes to the fact, that the President has once put his veto upon it, and has even resorted to what, I shall ever consider, was a most unjustifiable measure on his part to prevent Congress from passing it into a law in spite of his veto, by the requisite constitutional majority of two-thirds of each House. We have good reason to know, that when we passed the bill simultaneously with the Compromise Act, such was the state of kind feeling which the latter had awakened in the bosoms of gentlemen, who had before voted against the Land Bill, towards its friends, that, had the President, who received both the bills in the same hour, returned the latter to us with his qualified negative upon it, at the time when he sent back the Compromise Act with his approval upon that, the requisite constitutional majority of two-thirds was ready in this body, as well as in the other House, to make the bill a law in despite of his veto. He chose to keep the bill until another session, and then sent it back to a new Congress, many of whose members were not members of that which passed the act. Is there any evidence of a change in his determination as to

this bill? and, if not, can any man hope for the passage of the Land Bill into a law, while he, who resorted to such means to defeat it, as I have in part described, still has it in his power to resort to similar means again? No, sir; though I hold it to be my duty, uncontrolled by the Executive will, to vote for the measure as often it shall be presented, yet I feel that we must wait till other counsels shall prevail in the Executive mansion before the people of any of the old States, which conquered these public lands from the crown of Great Britain by the expenditure of their blood and treasure, can be permitted to touch a dollar of the money arising from the sale of them. But, without reference to this state of things, it is sufficient now to say, that the objection that a liberal system of appropriation for public defense might come in collision with the distribution under the land bill, proceeds upon the admission of what is erroneous in point of fact; for we have ample resources for national defence, without touching the funds that the bill was intended to affect; and, were it otherwise, I should not hesitate a moment in deciding, that not a dollar should be distributed, or applied to other purposes, while it remains necessary to put the country in a state of preparation to meet any and every emergency that may arise out of the unsettled state of our foreign relations.

"Another objection has been urged. The honorable gentleman from South Carolina (Mr. Calhoun) has offered a proposition, that now lies on the table, to so amend the Constitution of the United States as to authorize the distribution among the States of all the surplus in the treasury not necessary for the expenses of the Government, whether proceeding from the avails

of the public domain, or from any other source. If it be any part of the design of his resolution to defeat the appropriations for those objects (which I have already observed, are, in my estimation, paramount to all others), I have yet to learn it; and, whenever that shall be avowed as its object, or shall appear, in my judgment, to be its effect, I shall hold it to be my duty, without reference to any other arguments against it, to resist it to the utmost. Sir, I do not propose to discuss its merits, but I am free to declare, it is a proposition which, in its present form, can never be attended with any practical results. Many of those who desire the distribution, believe that the object can be attained whenever Congress shall pass an act to effect it; and that the proposed amendment to the Constitution is objectionable, not merely because it is unnecessary, but because it involves an admission of the want of power, already conceded to Congress. The elaborate addresses on this subject by a late Senator from New Jersey (Mr. Dickerson), now a member of the cabinet, were made in vain, if there were no considerable number of men friendly to the object, and yet confident of the existence of a power to effect it. The President, in his annual messages to Congress, has repeatedly avowed himself friendly to the object of distributing this surplus among the States; yet he had rejected the Land Bill, which is the only measure that has ever been proposed by friend or foe to carry out, by a practical effort, any part of his suggestion. Considering these things, and reflecting at the same time upon the difficulty, not to say the absolute impossibility, of procuring any change in the Constitution whatsoever, on any subject, I cannot view this proposition as presenting, even to the friends of the distri-

bution which it contemplates, any ground upon which an opposition to the great measure of national defence can be rested. Sir, it is visionary. If the surplus must accumulate until that proposition shall be adopted, it will never find an avenue through which it may escape to the people, to whom it rightfully belongs.

"Nor does that other objection, that, by these means, the expenditures for internal improvements will be arrested, stand on any better foundation. Sir, the expenditures for internal improvements are effectually arrested by Executive action alone, no matter what may be our decision on this or any other subject. The President alone now governs the destinies of the country, so far as national improvement is involved in them. * * * * Until the people shall desire it otherwise, and manifest that desire by the elevation of some one to the Presidential power who will consent that their money shall be expended in making railroads and canals, to bind and connect together the different sections of our country, as well as in the purchase of arms, the employment of fleets, the raising of armies, and the erection of forts, we have no alternative left to us but that of appropriating largely for the defence, or suffering this wealth to accumulate until the sum of its enticing glories shall win the heart of some one to use it for the mastery of us all, and the conquest of the liberty that is left to us. And, sir, I say again, in reference to this objection, as well as to all others of a similar character, that so long as the public money can be usefully applied to the indispensable object of the necessary protection and safety of the country, any and every other object of expenditure sinks, in my judgment, into inferiority with that."

It will readily occur to any one who will think upon the subject, that as the Land Bill passed cotemporaneously with the Compromise Act, it was part of a great system of measures devised, among other purposes, for the protection of American labor. We have seen that the *minimum*, or lowest point to which the duties could descend under the Compromise Act, was that point where the revenue derived from them was just sufficient for an economical administration of the Government. The Compromise Act expressly declares that the revenue necessary for that purpose shall be derived from import duties only. The fact, as above stated in the extract from Mr. Clayton's speech, shows conclusively that Southern as well as Northern men had, at the close of the session of 1833, agreed to pass the Land Bill, in spite of the President's veto, by the requisite constitutional majority of two-thirds. This important fact has often been stated, but we here have the tangible evidence to sustain it. Within less than three years after these events occurred, Mr. Clayton publicly states the fact, in his place in the Senate chamber, in the presence of all the Southern as well as Northern Senators, many of whom had participated in the exciting scenes of 1833, and who could have contradicted the statement, if Mr. Clayton had been mistaken. There does not seem to be room to doubt that the whole scheme of compromise agreed upon, contemplated the abstraction of the revenue derived from the sale of the public lands from the treasury of the nation, the distribution of it among the States,

and the support of Government from a tariff, which must necessarily be protective. The best part of the compromise, therefore, was crushed by the course of the President in withholding the bill from the Senate, and Mr. Clay and his friends were, as they conceived, most unjustly held responsible by their adversaries for all the distress that the country suffered until it got relief by the tariff, passed in 1842, before referred to. Everybody was taken by surprise at the non-action of the President, which was kept secret, till the last moment of the session, from his most intimate friends, except perhaps the Hon. Thomas H. Benton. Mr. Clayton, and the others with whom he acted, claimed that had the Land Bill become a law, and the whole compromise been faithfully carried out on both sides, — had the Secretary of the Treasury withheld his great and fatal blow at the *minimum* principle, faithfully executing the act according to the meaning of those who passed it, — had the biennial reduction of the revenue of ten per cent. been arrested by the succeeding administration of Mr. Van Buren, as the law directed, when the revenue raised from duties was about to prove insufficient for the expenses of Government, — and, above all, had the law been executed so far as related to the home valuation of imported goods, provided for by the act, the manufacturers would have been fully sustained, and the country would have escaped all the distress before referred to.

While a member of the Senate, Mr. Clayton appears to have been engaged in the discussion of all the leading questions of constitutional law which agitated and divided that body. Of his ability as a lawyer, a correct judgment may be formed by perusing the debates on those questions. The opinion of his brother Senators on that subject is not to be mistaken; for from the year 1833 till he left the Senate, he was regularly elected by the votes of the Senators as the Chairman of the Committee on the Judiciary, — the post for which the best constitutional lawyer is supposed to be selected. A higher compliment could not have been paid him by the Senate; and most faithfully did he labor for the service of the country while filling this most important place. To this committee all questions of constitutional law, indeed, all important legal questions, were referred. The heaviest claims against the Government were submitted to its consideration. Questions of boundary between the States of the Union; and all the important questions connected with the admission of new States; the organization of new Territorial governments, and the supervision of the laws for administering justice in the Territories; all questions relating to the courts of the United States, and the administration of justice by them; all Executive nominations of judges and marshals of the United States; nominations for the offices of Attorney-General and District-Attorney; appropriations of money to support the administration of justice in the United States, and to defray expenses incident to the courts, were

among the subjects which demanded the indefatigable attention of the committee, and especially the chairman. While acting in this capacity, Mr. Clayton reported from his committee the original law which first extended the jurisdiction of the United States over the immense Territory of Wisconsin, then embracing the Territory of Iowa, and established a Territorial government founded on the most liberal principles, over a country, part of which was then in a state of perfect anarchy, where murders and crimes of the deepest dye were perpetrated with impunity; or, if punished at all, were visited only by lynch law, to gratify the vengeance of an outraged mob. The delegate from Wisconsin, until the period when Mr. Clayton assumed the task of carrying a law for the government of the Territory through the Senate, had for a long time, at each successive session of Congress, urged the necessity of legislative action in its behalf. Such was Mr. Clayton's influence, as chairman of the committee, and such the confidence of the Senate in his discretion and judgment, that when he reported this important bill to the Senate, containing a frame of government for a country large enough almost for an empire, he succeeded in pressing it through all the forms of legislation, and finally passing it through the Senate, in a single day. No event could give us a higher opinion of the confidence of the Senate; and it is doubted whether any other instance of successful effort similar to this can be pointed to in the annals of Congress. This prompt action secured its passage in the House; and

Iowa, one of the most beautiful and fertile parts of our country, was thus rescued from the horrors of anarchy. In return for the interest in her affairs taken by Mr. Clayton (who may justly be regarded as the father of the first Territorial form of government established for her protection), the Territorial Council shortly afterwards gave his name to one of the largest counties in the Territory, and the name of Delaware to county adjoining it.

The Boundary Question between Ohio and Michigan.

Among the many interesting subjects to which Mr. Clayton devoted his attention as chairman of the Judiciary Committee, was the settlement of a question which created great excitement and alarm at the time, relating to the boundary line between the State of Ohio, and the then Territory of Michigan. The question deeply affected both the contending parties; and, by its consequences, the States of Indiana and Illinois, the former of which, upon the grounds assumed by Michigan, would have lost a portion of each of her six northern counties. The parties immediately interested threatened to settle the question by the arbitrament of the sword; and, under the direction of the Governor of Michigan, troops were marched into the disputed territory, which were, of course, opposed by the State of Ohio. At the same time Michigan was

demanding admission into the Union; and the settlement of the question, before her admission, became a matter of duty which would not admit of delay. The whole question of boundary was referred to the Committee of the Judiciary; and, at the same time, a select committee was appointed to report upon the application of the State for admission into the Union. Mr. Clayton was a member of this last committee also, and it was owing to his successful exertions that both questions were happily settled. In an elaborate report drawn by him, as Chairman of the Judiciary Committee, in February, 1835, he reviewed at great length the whole controversy touching the boundary line, and reported a bill to settle the question forever. And such was the force of the reasoning in that report, and so clearly was the right of the matter explained and enforced by it, that, although it had been considered one of the most difficult questions, and one which Congress had long labored, in vain, to decide, yet men who had, theretofore, entertained the most opposite opinions on the subject, were induced to unite in support of the boundary proposed by the committee. The committee itself was unanimous in favor of the report, five thousand extra copies of which were ordered to be printed; and the bill, reported by Mr. Clayton, shortly after passed the Senate by a vote of 39 to 3. The House concurred, and thus was peacefully settled, without the interposition of military force, which had been invoked by each of the contending parties in their application to the National Executive, a question of a

most dangerous character, which, at one period, seriously threatened the peace of the country.

When the bill for the admission of Michigan was before the Senate, Mr. Clayton advocated the grant to the new State of a territory west of the Lake of about 20,000 square miles — in part for the purpose of reconciling her to the loss of the territory in dispute with Ohio (to which she never in fact had any right), but chiefly, as he averred at the time, for the much more important purpose of so far diminishing the extent of the territory of Wisconsin as to prevent the necessity of dividing that large Territory, and forming out of it, in future, two new States, to be added to the Union. He foresaw that the balance of power between the slave-holding and non-slaveholding States of the Union, as a necessary consequence of the formation of *two* new non-slave-holding States out of the Territory of Wisconsin, would be disturbed. In the South, Florida alone remained for the formation of another slave-holding State: and he sought to maintain the safeguards of the Constitution in favor of Southern rights, by supporting that equality of representation in the Senate, which was soon to be lost in the House of Representatives. This was the true reason for the extraordinary addition of 20,000 square miles to Michigan, on the west of the Lake. Strange to say, after Mr. Clayton left Congress, the noisy advocates of *Southern Rights* entirely overlooked this important subject, and while their attention was engrossed by mere party matters, suffered a bill to slip quietly through Con-

gress, without the slightest opposition, forming two distinct Territories out of the Territory of Wisconsin, each of which was then ready and entitled to demand admission into the Union as a sovereign State. When they were admitted, the balance of power in the Senate was lost, and the last and only safeguard for the South, in a constitutional system of checks and balances, was taken from her forever.

While the bill was yet pending, Mr. Clayton moved a proviso that the act should not go into effect until the people of the State should, in convention, alter the boundaries, which had been fixed by a previous convention, so as to include a part of the State of Ohio, and assent to the new boundaries, which, while they immensely enlarged the area of the State, excluded the territory which had been in dispute between her and Ohio. The necessity of this proposition was so apparent as soon as it was suggested: the danger of a conflict between two sovereign States, each claiming the same territory, was so palpable: that, notwithstanding a strenuous opposition from Mr. Benton, after the subject had been discussed by himself and Mr. Clayton, the Senate, by an overwhelming vote of men of both parties, adopted the proviso; and the two States, as well as the Union, were secured against any possible danger of future collision. Mr. Clayton next called the attention of the Senate to the fact that, by the new Constitution which Michigan had adopted, and which Congress was now called upon by the Constitution of the United States to approve, before she could be ad-

mitted into the Union, aliens were entitled to vote at all elections. He gave it as his opinion, as a lawyer, that the admission of aliens to the right of suffrage before they were naturalized according to the laws of Congress, was a violation of the Constitution of the United States, and that the State ought not to be admitted until her Convention had adapted her State Constitution to the supreme law of the land. He then moved another proviso to the bill in accordance with his opinion. This brought on one of the most interesting debates that ever occupied the attention of the Senate. In vain did Mr. Clayton, who actively participated in the discussion, strive to prevent the question from assuming a party complexion. Mr. Benton led off in a political speech, addressed to his own party, in favor of the right of aliens to vote without naturalization ; and, strange to relate, drew the whole force of his party in the Senate after him. At the close of about a week's discussion, the Senate seemed to be equally divided on the motion, when a Senator but lately arrived, who had been absent, and who had heard only the close of the debate, contrary to all expectations, threw his vote against the proviso, and gave a majority of one in favor of the admission of the State, and the allowance of the right of suffrage to all aliens, whether naturalized or not. So deeply was Mr. Clayton disgusted with this decision, which, as he conceived, prostrated the Constitution of the United States merely to secure the vote of Michigan, that he divested himself of any further care or charge of the bill, and imme-

diately left the Senate chamber; as did also, about the same time, nearly all his political associates. A bare quorum was left to pass the bill, which they accomplished, and thus succeeded in obtaining the vote of Michigan in favor of their candidate for the Presidency.

I shall not attempt to trace Mr. Clayton's history through the whole course of his Senatorial career. As chairman of the Judiciary Committee, he reported the bill to extend the territory of the State of Missouri so far west as to embrace the whole country lying eastward of the Missouri river, and south of the Iowa boundary; and successfully exerted his influence in favor of its passage. He took an active part in the discussion of the various questions arising out of the President's removal of the public deposits from the Bank of the United States, using, in a speech delivered by him in the Senate, the following prophetic language about the evils that would result from the veto of the President upon the re-charter of the Bank of the United States:

"In less than four years the pecuniary distress, the commercial embarrassment, consequent upon the destruction of the United States Bank, must exceed any thing which has ever been known in our history. . . . . The depreciation of paper operates as a tax on the farmer, the mechanic, and all the consumers of merchandise, to its whole amount. The loss of confidence among men; the total derangement of that admirable system of exchanges which is now acknowledged to be better than exists in any country on the globe; over-

trading and speculation on false capital in every part of the country; that rapid fluctuation in the standard of value for money, which, like the unseen pestilence, withers all the efforts of industry, while the sufferer is in utter ignorance of the cause of his destruction; bankruptcies and ruin, at the anticipation of which the heart sickens, — must follow in the long train of evils which are, assuredly, before us."

As chairman of the Committee of the Judiciary he made that most elaborate report on the attempt of the President and Secretary of War to remove the Pension Fund from the Bank in 1834. Six thousand extra copies of this report were printed by order of the Senate; and its effect upon that body was such that, in the midst of one of the most violent party excitements ever known in the country, and in despite of all the influence of the President and Secretary, the report which vindicated the right of the Bank to the Pension Agency, was sustained by the Senate by a vote of nearly two to one.

The Apportionment Bill.

One of those measures in which Mr. Clayton took great interest when it came before the Senate, was the bill for the apportionment of the Representatives in Congress. While he was a warm admirer of the high qualities of Mr. Clay and of Mr. Webster, he never yielded his own judgment to the dictates of either. His advo-

cacy of Mr. Webster's amendment to the Appropriation Bill of 1832 in opposition to Mr. Clay, and the support he gave to another great measure to which allusion will presently be made, are among the many evidences which existed that he sided only with either of those great statesmen from convictions of duty. The amendment proposed by Mr. Webster to the bill for apportioning the representation in Congress, presented a question purely legal and mathematical in its character. For forty years the Congress of the United States had proceeded on a false principle in distributing political power among the States; and such was its effect upon the State of Delaware, that during all that period, she had not obtained as fair and full a representation in the House of Representatives as the very slaves in Georgia. The States which had been oppressed were the smaller ones, whose right had been sacrificed by the transfer of their Representatives to the larger States. The object of the amendment was to prevent in future this injustice; to establish a just proportion between the number of the House and the ratio of representation, which had always been overlooked, under the wretched pretext that fractions could not be represented. In the protracted debate which ensued on the introduction of the amendment, Mr. Clayton took a more active part than any other member of the Senate, and on the 25th day of April, 1832, he delivered a speech on the whole subject, in reply to Mr. Dallas of Pennsylvania, which conclusively demonstrated the justice and propriety of the amendment. The result was, the adoption of the amendment by the Senate. The House, however,

refused to concur in the amendment, but the discussion had settled the principle forever; and Mr. Clayton appears to have anticipated that the next apportionment of representation in Congress would allow representation for fractions, as the best possible method, and the nearest approach to that exact justice contemplated by the Constitution. He predicted that the debate had settled the question for all time to come, and that the gross injustice which the apportionment laws had sanctioned, from the origin of the Government, would cease, when the subject became fully understood. His closing remarks, in this debate, were as follows:

"The Senator from Pennsylvania (Mr. Dallas) objects to the rule adopted in the amendment because he says it is complex and not obvious to the mind. It has been stated over and over again, to be nothing more than the common rule of three, or of practice, as the gentleman from Virginia (Mr. Tazewell) has called it, or of fellowship, as others call it. I thought it could not puzzle a Philadelphia lawyer to work it out, although the honorable gentleman denounced it so strongly for its mathematical intricacy. In truth, it is much more obvious to the common mind, as a principle of justice, than the rule of arbitrary ratios; and I willingly risk its success on the unbiased judgment of the people, whose sense of right will induce them to adopt it in preference to that system which, to say the least of it, is, to a great extent, anti-republican, unjust, and most unequal, and which has been denounced, in a recent letter from a gentleman in New York, who stands among the most distinguished jurists this country has produced,

as unconstitutional, and absolutely intolerable in its operation.

"Sir, the gentleman from Pennsylvania has said that the mode of apportionment proposed by the bill has been submitted to without a murmur for forty years; that it has now become like those settled institutions of the country to all of which the citizens of Pennsylvania are so much attached, and for the preservation and maintenance of which, in their own peculiar way, they are contending, have contended, and always will contend. But, sir, let me tell him that it yet remains to be shown that her patriotic people have ever, knowingly, sanctioned deliberate injustice, or downright usurpation, no matter through how many ages it may have withstood resistance, and defied the claims of justice. If the people of this country should now, generally, examine this subject, they would no more tolerate the principles of this bill, than they did the long-continued tyranny of the English monarchs, which, in 1776, was, at least as much as this, one of the settled institutions of the country. And so far from its being true that those who have been oppressed by this contrivance, have submitted without a murmur, I believe that at each succeeding apportionment, the complaints of the injured States have been uttered, not in threats or denunciations, but in the tone of firm, manly, and respectful opposition. We will go no further now, sir, than those who went before us. But it shall be our task to lay before our country the justice of our claim, relying, with perfect confidence, upon the honesty and good faith of our countrymen to right us, when they shall learn we have been wronged.

"My friend, the eloquent and able Senator from Ohio (Mr. Ewing), despising the petty advantage which might be gained by a large State over a small one by the

trickery of this bill, has, by his steady opposition to it, endeared to us more than ever the magnanimous people of that great and greatly growing member of our confederacy, whom he so honorably represents; while he has strengthened our confidence in the justice of our countrymen. Hitherto our complaints have been heard in vain; indeed, the inducement to make them was never before so great. Through all the earlier stages of our Union, the cause of complaint was much less, because the difference in the population of the respective States was comparatively inconsiderable. But as that difference has increased, so has the injustice, and the complaint of those who have been wronged by its increasing operation. In time, this evil will become so intolerable, that it must be changed, or the rights of the smaller States must be substantially abandoned. In the perfect conviction that this change must come, and in the belief that the old mode of apportionment will, at some future period of our history, be denounced as one of the strangest illusions that ever misled our countrymen, a defeat, at this moment, would neither increase my confidence in the justice of former decisions on this subject, nor diminish my hopes of a correct determination hereafter."

The expectation of Mr. Clayton was not disappointed; for in the law for the apportionment of representation in Congress, passed in 1842, the principle advocated by him and Mr. Webster, was triumphantly incorporated; and the manifest justice of it was such that it was not thought possible it ever would be abandoned.

President Jackson's Protest — Removal of the Deposits

In the year 1834 President Jackson made a direct issue, in his celebrated Protest, with each of those Senators who had voted in favor of a resolution condemning his act of removal of the public deposits from the Bank of the United States. Most intelligent persons, having knowledge of political affairs, are too well acquainted with the celebrated document and with the resolution that induced it, to require their production here. Suffice it to say, that the President, in his Protest, ostentatiously published the names of each of the Senators who had condemned his conduct, and made a direct appeal to the people against their re-election. Mr. Clayton was one of those whose six years term of office was about to expire, and was one of the most prominent of the "protested Senators," as they were, at that day, termed. Long before this time he had privately expressed a wish to his friends, to retire from public life; which he thought was a duty he owed to his family, then consisting of his two sons, his brother, a niece, and three nephews — all but the brother mere children. But when he saw the President's Protest, he immediately determined to join issue with him before the people of Delaware, to cancel his intention to retire, and to stand a full canvass for re-election. The President sought for a verdict of approval of his own conduct by the citizens of Delaware, as well as those of

other States, the terms of whose Senators were about to expire. Mr. Clayton thought that he could not, with honor, decline to meet the President on his own issue, by announcing his intention to retire before the election, and he determined that the President should hear the sentiments of the people of Delaware, who, he well knew, heartily approved of his own conduct in public life. This was the year of Mr. Benton's celebrated golden scheme, and the party friends of the President everywhere made the strongest appeals to the prejudices and ignorance of the masses,—as men will always do to support their views politically. The contest in Delaware was one of the most exciting ever known here. It resulted in a complete triumph for Mr. Clayton and his friends, and his re-election to the Senate was now made certain, in case he chose to accept.

Resignation of Senatorship.

After the election in 1834, Mr. Clayton issued the following card to the people of Delaware, which is to be found in Niles's Register of Dec. 5, 1834:

To the People of the State of Delaware:

"Fellow-Citizens: — At the close of the last session of Congress, I should have published my desire not to be considered a candidate for re-election to the Senate of the United States, but for the extraordinary position then occupied by the Executive, in relation to the Senate. The President, by his protest against the Sen-

ate's resolution of the 27th of March last (the resolution of condemnation for removal of the deposits from the Bank of the United States), virtually appealed to the people of the United States, and invoked their condemnation of a vote which then had, and still has, my hearty concurrence and approbation. I had joined with those who declared that, in their judgment, the then recent proceedings of the Executive, in relation to the public revenue, were in derogation of the Constitution and laws of the country. My Senatorial term was about to expire; and the Executive protest tendered to the people, who had the right to judge me, a direct issue, as to the propriety of my vote. My name was recorded on the journal of the Senate as a supporter of the resolution which incurred his censure; and was registered on his protest in conjunction with those of all the others whom that strange official paper denounced. Under such circumstances I thought it unworthy of me to shun the trial he desired, and contend only by substitute, for the principles which had governed my official conduct. I thought it due to him, as well as to myself, and still more to the people, to stand at the post which was the object of his assault, meet the question which he had raised, and abide the determination of the tribunal to which he had appealed. Had I then announced the desire which I had long felt, to retire from public life, I might have been regarded as a recreant to the political faith with which I entered your service, and with which, by the blessing of God, I will live and die.

"The question between us is now decided, by the only authority before which I will bow, or to which I have ever been amenable — the authority of the free citizens of Delaware. Two-thirds of each branch of her Legislature are avowedly opposed to the principles of the

Administration, having been, on that ground, elected by the people on the eleventh day of this month; and they are men whom no machinery of the Executive can influence or control. I am, and under other circumstances, I should have been, uninfluenced in my present course by the determination of other States. If the current of Executive power in other sections of the country, instead of being resisted as it has been, had set onward like the Pontic sea, which knows no retiring ebb, still, true to the interests and principles of the State, I should have been as anxious to represent her, had other considerations permitted it, as if she had been sustained by the whole nation. But now, after five years of public service, during the greater part of which I have been, necessarily, absent from home, finding that the post which I am about to leave will be occupied by a successor of the same political principles, I tender you, my fellow-citizens, my grateful acknowledgments for that support which, through my whole term of service, has never deserted me, and desire to relinquish public office. As your Legislature will not meet till the month of January, I hold it to be due to you to remain in the Senate till your immediate representatives can have an opportunity of selecting my successor.

"JOHN M. CLAYTON."

DOVER, DEL., *Nov. 24, 1834.*

To this address the following comment was added by the editor of the *Register:*

"The amount of this (as we understand it) is no more than that Mr. Clayton will decline a re-election, at the meeting of the Legislature of Delaware. This pro-

ceeding we think will be (*for so it ought*) regretted by the good men of all parties in the Senate — honoring talents, and respecting private worth, rather than party."

Mr. Clayton continued in the Senate till the meeting of the Legislature in January, 1835, when he transmitted to his friends in that body a letter declining a re-election, and resigning the residue of his Senatorial term. The answer made to him by the Legislature, immediately afterwards, was a certificate of re-election for another term of six years, and a letter signed by two thirds of both Houses, insisting on his continuance in the Senate, urging him by every consideration not to retire, and, among other things, stating the fact that the Whig members would find it impossible to agree upon a successor, in case he should persevere in his intention to leave the Senate. Under these circumstances, he found himself pressed by the necessity of continuing in Congress until, at the next biennial session of the Legislature, his friends might agree upon a successor.

National Defence — Benton's Resolution.

On December, 1835, Mr. Benton brought forward a resolution, pledging the surplus in the Treasury, after deducting enough to meet the expenses of the Government, to the purposes of national defence. The object ascribed to him by his opponents was to arrogate to himself and his party the exclusive title to the charac-

ter of friends of national defence; to attack the Whigs, by holding out the idea that they were its enemies; and, if possible, to drive them, by his denunciations, to do some act, in consequence of which he and others might be able to fasten upon them the odious charge of hostility to the fortifications of the country, and of neglect to prepare for a war which then seemed to threaten us with France. At the close of the session of 1835, the Whigs in the Senate had voted down what they considered the monstrous proposition, then sprung upon them after midnight of the day on which they were to adjourn, to appropriate three millions of dollars for the defence of the country, to be expended by the President *as he might think proper!* Mr. Benton's resolution was the signal for an attack upon the Whigs in and out of the Senate, for having dared to vote down a proposition they deemed outrageous. The debate on the resolution became general on both sides; in the course of which Mr. Webster declared that he could not vote for such a measure, were the guns of the French battering at the walls of the Capitol. You do not need to be reminded that the danger of a war with France at this period arose out of the refusal of the French Chambers to vote an appropriation of 25,000,000 francs to pay the indemnity agreed upon in Mr. Rives' treaty for spoliations on our commerce, under the Berlin and Milan decrees. Mr. Webster was furiously attacked both in and out of Congress for having given utterance to a sentiment, which party men, for party purposes, held to be treasonable to the

nation. In the midst of the bitter denunciations of him, John Quincy Adams, then a member of the House of Representatives from Massachusetts, made and persisted in repeated attacks upon the Senate for having voted against the three-million amendment for the fortification bill of 1835 — the proposition to which reference has already been made: and in the progress of one of his most violent philippics, to the confusion of his own friends and the delight of his enemies, he declared that for a man who had uttered such sentiments as Mr. Webster's, "there would be but one step more (a natural and easy one to take), and that would be with the enemy at the walls of the Capitol, to join him in battering them down." The political enemies of Mr. Webster in the House attempted to give point to this most cruel and unjust attack by giving three cheers to the orator. It was at this period of the debate, then going on in both Houses, that Mr. Clayton felt himself called upon, as well by the demands of private friendship for Mr. Webster, as by the dictates of public duty, to battle with the enemies of his party in their attacks, to vindicate his friends, and to turn the odium of the public upon their calumniators, if possible. The task was, indeed, a delicate and difficult one: but it was triumphantly accomplished. On the 8th of February, 1835, Mr. Clayton commenced his speech on Mr. Benton's resolution, by announcing his intention, before he sat down, to move to strike the word "surplus" out of the resolution, — a motion which, to use a nautical phrase, completely "took the

wind out of the sails" of Mr. Benton — avowing himself and his party to be the true friends of national defence, attacking the opposite party for all their neglect to prepare for war during the whole time when they had held a majority in Congress, and spreading before them such a history of their inattention, as he claimed it to be, to the real wants of the country in this respect, as soon convinced them that this war was a game that two could play at. He discussed the constitutionality of a three-million amendment, and, as his friends said, hurled back the imputations of the other party with such effect against themselves, as made even the least considerate among them anxious to dismiss the controversy. Then followed that vindication of Mr. Webster's sentiment, which, as soon as it was published, changed the torrent of obloquy against Mr. Webster, throughout the country, into one general burst of applause. Here is an extract from this part of his speech; but it is impossible to comprehend the force of it, without reading the discussion of the constitutional question which precedes it. The space devoted to this memoir, will permit scarcely anything more than reference to the speech itself. (It should be observed that the appropriation, referred to by him in this extract, was that above mentioned, proposed to be placed in the President's hands, without designation of the specific objects to which it should be applied.)

"Viewing the proposed appropriation of three millions of dollars, without restriction, specification, or limitation

of the objects other than the naval and military service, as not only unconstitutional, but as destructive of the first principles of representative government; having considered and expressed his solemn conviction, after a year's deliberation, that it laid the foundation for the introduction of dictatorial power in this Government, and contained the very language in which a dictator might be appointed, under a pretence of some future pressing emergency, the honorable gentleman from Massachusetts (Mr. Webster), in the midst of a strain of fervid eloquence and indignant remonstrance against the attempted outrage, which has not been equalled in the debate, and cannot be excelled, had declared that 'if the proposition were now before us, and the guns of the enemy were battering down the walls of the Capitol, he would not agree to it; that the people of this country have an interest, a property, an inheritance, in the Constitution, against the value of which forty Capitols do not weigh the twentieth part of one poor scruple.' Taking authority for so doing from another part of the Capitol, I read the following remark, as published as the *National Intelligencer*, in reference to this sentiment: 'Sir, for a man uttering such sentiments, there would be but one step more (a natural and easy one to take), and that would be with the enemy at the walls of the Capitol, to join him in battering them down.' And he who published this, has also published that when he uttered it, he 'was interrupted by a spontaneous burst of feeling and applause.' But, he adds, 'the indiscretion was momentary, and the most respectful silence followed.'

"Sir, I pass over, without notice, the account given of the 'applause,' and 'a spontaneous burst of feeling,' and 'indiscretion,' and then, 'the most respectful

silence.' Indeed, I know nothing of these allegations, except as I find them here stated. But in regard to that denunciation of my honorable friend from Massachusetts (Mr. Webster), who is this day elsewhere necessarily detained, and in reference to the particular individual who was the author of that denunciation, I have something to say.

"The opinion, expressed in this denunciation, is, that it would be a natural and easy step for the Senator from Massachusetts to take, to join the enemies of his country in war, — in other words, to turn traitor, and merit by his treason the most ignominious of all deaths, with an immortality of infamy beyond the grave!

"And for what. The Senator from Massachusetts had expressed a preference for the Constitution to the Capitol of his country. He had dared to declare that he prized the Magna Charta of American liberty, the sacred bond of our Union, the tie which binds together twelve millions of freemen, above the stones and mortar which compose the crumbling mass within whose walls we are assembled. 'The very head and front of his offending hath this extent, no more.' No man here has questioned, in the most violent moments of party excitement, nor amidst the fiercest of all political strife, his purity of purpose, in debate. Grant to him what all others, who have any title to the character of gentlemen, demand for themselves — that he believed what he said; grant that, in his judgment, as well as that of many here, the very existence of our liberties is involved in the surrender of the principle he contended for; grant that the concentration of legislative and executive power in the hands of a single man is the death blow to the Constitution; and that the Senator was

right in considering the proposed appropriation as establishing the very principle which gave that fatal blow, — and who is he that, thus believing, would support that position, because the guns of 'the enemy were battering at the walls of the Capitol'? Where is the coward, where is the traitor, who would not rather see the Capitol, than the Constitution of the country, in ruins? or who would lead himself to the establishment of a despotism among us with a view to save the building for the despot to revel in? Sir, in the days when Themistocles led the Athenians to victory at Salamis, he advised them to surrender their Capitol for the preservation of the Constitution of their country. That gallant people rose, under the impulse of patriotism, as one man, with a stern resolution to yield life itself rather than abandon their liberties, and surrender the proud privilege of legislating for themselves, to the delegate of a Persian despot who offered them 'all their own dominions, together with an accession of territory ample as their wishes, upon the single condition that they should receive law and suffer him to preside in Greece.' At that eventful period of their history, Chrysalis alone proposed the surrender of their Constitution to save the Capitol; and they stoned him to death! The public indignation was not yet satisfied: for the Athenian matrons then rose and inflicted the same punishment upon his wife! Leaving their Capitol, and their noble city, rich as it was with the productions of every art, and glittering all over with the proudest trophies and the most splendid temples of the world; deserting, in the cause of free government, the very land that gave them birth, they embarked on board their ships, and fought that battle, the name of which has made the bosoms of freemen to thrill with sympathy in all the ages that

have followed it, and shall cause the patriot's heart to beat higher with emotion, through countless ages to come.

"I repeat, sir, what no man, who knows the Senator, has ever doubted, and what no man who has a proper respect for himself will even question, that he was sincere in declaring that he received the proposition under debate as involving the surrender of the most valuable trust reposed in us by the Constitution, to a single man; and as one which, while it delegates the legislative power to the Executive, establishes a precedent to prostrate the Constitution forever. Then tell me, what should be the fate of that man (if such a man can be found) who, having owed his elevation to the highest office in the world to that gentleman and his friends, and having been sustained in the administration of it by the exertion of all the power of that giant intellect, which is now the pride of the Senate and the boast of the country, could, without other provocation, have published that such a friend, after giving utterance to such a sentiment as he did in debate here, would find it a very natural and easy step to turn traitor to his country, by joining with her enemies in war? Sir, all good men will say that the convincing argument which could have induced, from such a quarter, such a remark, the author of that comment will find, not in the observation he has condemned, but in his own heart; and those who are acquainted with past events will add that it has proceeded from one who has, habitually, found it a natural and easy step to turn traitor to his friends. Such a man should never be suffered, by honorable men, to stand in any party again; for this unprovoked denunciation proves that its author will be false to all

parties, and true to no friend. I will do those in power the justice to say that I do not believe they have even invited his embraces or proffered him any office, however that may be the true object for which he has thus shamefully denounced his friend and abandoned his party. No, sir; if he be a political traitor, they

> "Gave him no instance why he should do treason
> Unless to dub him with the name of traitor."

The following is a specimen of the defence of his own party from the attack of Mr. Buchanan and others, and of the manner in which the war was carried into the camp of the enemy; and is part of the same speech, just quoted, delivered on the 8th of February, 1836, upon the subject of national defence:

"The gentleman from Pennsylvania, with a view to make up the issue in such shape as would put the Senate on trial with the best advantage to himself, announced that the true question for discussion was. Who is blamable for the present condition of our seaboard? Sir, I shall not avoid the examination of that question. It presents no difficulty. As to the fact, upon which he dwelt so earnestly, that it is defenceless, he has already seen that I concur with him and others, who have proclaimed its defenceless condition. He may add as much more coloring to that picture, of the danger arising from this neglect, as his imagination can supply him with, and I shall not seek to deface or obscure it. He may ring it, again and again, in the ears of the people, that, in the event of a rupture with a foreign country, our cities would be

sacked, our coast pillaged, and our people butchered. The more he magnifies the danger, the greater will be the condemnation of those who, for seven years past, have held the power to prevent this state of things, and have neglected their duty. Sir, his political friends have held the reins for a longer period; for they had their majority in Congress, before the termination of the last Administration. In the other House they have, ever since, held an overwhelming influence; and in this, with the exception of the last three years only, they have also been in a constant majority. The other House never proposed a measure for defence, before last session, in which the Senate refused to concur; and, what is more worthy of note, they never proposed a bill for defence, to which the Senate did not add, largely, by amendment. For seven years, during which time I have held a seat here, the action of the Senate was always quite as prompt as that of the other House, on these subjects; and, indeed, if my memory be correct, we were generally in advance of them. Sir, it is all in vain that the gentleman seeks to cast that fearful responsibility, arising out of more than seven years' neglect of our Atlantic seaboard, upon the minority in Congress. In vain does he invoke the judgment of the public against that Senate which, during the two or three years when the Administration has not been able to control its vote, has been made the scapegoat to bear nearly all the other neglects and transgressions of those in power. The fact is, and every man now within the sound of my voice knows it, or ought to know it, that not only has our whole system of improvement been checked, but the defences of our country have been shamefully neglected, since the present party came into

power, on the miserable pretext of paying off the national debt,— a debt which was never pressing, and which would have been easily extinguished by the operation of the old Sinking Fund Act, long before it could possibly have been felt as an injury, if internal improvements had been still properly encouraged, and our sea-coast had been properly fortified. Witness, now, that wonderful exhibition of financial skill and statesmanship, by which, when all other debts had been disposed of, the odd thirteen millions, drawing interest at only three per cent., and nearly all in the hands of foreigners, was paid off, in spite of all remonstrances, for the sake of making the vain-glorious boast that, during this Administration, the whole national debt was extinguished. At the time we were paying these three per cents, the army, the navy, the fortifications, the roads and canals, the improvement of our rivers, and even the ordinary facilities for commerce, were neglected. Light-house bills, and bills to distribute a portion of the avails of the public domain among the States, for the purposes of improvement and education, were either voted down, or vetoed down, and all for glory,— ay, for the glory of paying off the national debt, by withdrawing from the people the use of their money, which was surely worth to them, not only for defence but for improvement, the legal rate of interest, and extinguishing a debt in the hands of foreign creditors drawing three per cent. only. Why, sir, the fact is notorious, that such has been this miserable and morbid excitement, industriously kept up to gratify party pride and folly, that scarce a week has elapsed, within the last seven years, in which some newspaper editor has not reminded us of the glory of the Administration in paying off the national debt; yet, during all

this time, the gentleman from Pennsylvania says, our whole seaboard has been left naked to any invader, our cities have been constantly in danger of being sacked, our coast pillaged, and our people butchered, without the means of resistance in the event of war. This glory has left us, all the while, at the mercy of any foreign power, which might have chosen at any moment to assail us.

"The only salvo now relied upon to sustain those in power from their own charge against the Senate, of leaving the whole seaboard defenceless, is, that a majority (not all) of their party friends in Congress did, at the last moment of the last session, propose and vote for this three million amendment. But what could have been effected with that money, if we had granted it? Would that have built up fortifications, and put the navy and army on a war establishment within the nine months allowed for its expenditure? Sir, if it had been applied to no mischievous purpose calculated to induce a war with France, which some think was its real design, its effects upon the sea-coast in erecting forts would not have increased the permanent security of the country, to a perceptible extent, before the meeting of Congress. If, through the whole period during which this Administration has been in power, we had been regularly progressing with a system of national defence, properly adapted to the wants and means of the republic, we should hardly yet have been in a state of preparation for war, becoming such a country and such glorious institutions as ours. Labor itself cannot always be commanded by money, and time is indispensable in the proper construction of all great works: and an error not uncommon in regard to our public works of every description, has been to do in months

what should be the work of years. But, in order to show the gentleman from Pennsylvania and his friends how utterly indefensible they are when arraigned on their own charges, let us now concede, for the mere purpose of argument, that this "three million amendment," upon which they relied, would have been sufficient for putting the army and navy on a war establishment; that it would have effected all this in nine months, and that it was necessary to expend it. I ask them, how comes it about that they have suffered two whole months of the present session to pass away without renewing this or some similar proposition? And how do they excuse themselves for not having proposed so salutary a measure at an earlier day during the last session? The moment of the vote on that amendment, the gentleman says, he shall always look upon as the proudest moment of his life. Doubtless, in his estimation, it was a most happy vote for him. Then, why not renew it? Why does that patriotism whose midnight vigils receive so much applause, slumber during the broad daylight, and why has it slept so long? He has known that the only objection, of many among us, to the proposition, was a constitutional objection, which by altering the proposition from a general to a specific one, he could obviate. Then, why has he not proposed it, or something like it, for the last two months, during all which time, according to his own language, we have incurred the danger of having our cities sacked, our coast pillaged, and our people butchered, for want of it? Since last session, all intercourse with France has been suspended; a powerful fleet, we are told, has been hovering near our coast, and acting as a fleet of observation, and, with the vigilance of a hawk, ready to stoop

on our unprotected commerce, from its commanding position, or to attack our naked seaboard at the slightest notice.

"To the question, why this measure was proposed only at the last moment of the last session, the honorable member from Pennsylvania has already attempted an answer. He took especial pains to bring us to the point of time at which the amendment was rejected. His object seemed to be to demonstrate that then the patriot should have spoken out, by the surrender of his constitutional scruples, and the delegation of his representative power over the public treasure, to the President. He reviewed the state of our relations with France, for the very purpose of showing that, at that period, our affairs were at a peculiarly dangerous crisis, and labored to excuse himself and his friends who brought forward this proposition at that time, by making the impression upon his hearers, that there was just then, a new impulse given, by recent intelligence from France, to the adoption of measures of a hostile character. But, sir, most unfortunately for this excuse, the intelligence, to which he has referred, was decidedly of a pacific character, and was precisely that very information by which any reasonable man, however apprehen- of danger before its arrival, would have been convinced that then there was not the slightest apparent necessity for a resort to any measures of a hostile character."

Mr. Clayton closed his speech (the best, in the judgment of some of his friends, that he ever delivered in the Senate) with his promised motion to strike the word "surplus" out of the resolution, thus pledging every dollar of the revenue for the national defence, which was carried by a large majority. The division of this

question threw all the leaders of the opposite party into a meagre minority, as all the Whigs voted in favor of it, and not a few of their opponents, who were not willing to be outdone by the Whigs in promising magnificent preparations for war; and then this famous resolution was passed by a unanimous vote. Those who had introduced it, and who had expended so much labor in support of it, by these means failed of their objects. The Whigs refused to be arrayed in hostility against the national defence, and gained the credit of being its principal advocates; while Mr. Benton saw that his secret and dearest object was utterly lost — which was to prevent the passage of any distribution law during that session giving the immense surplus in the Treasury, amounting to nearly forty millions of dollars, in just proportion to the States. Shortly after this party triumph, as it was considered, the favorite measure of the Whigs, that of distributing the surplus revenue to the States, was introduced, and carried through both Houses of Congress, in spite of Mr. Benton and his celebrated resolution. By the amendment of Mr. Clayton, the resolution had become a harmless and barren generality.

With this session of Congress, Mr. Clayton intended to terminate his Senatorial career. In the fall of 1836, resolved not to be presented by his friends in the Legislature a second time, he resigned the residue of his term of office to his friend Charles Polk, the Governor of the State of Delaware by the death of Governor Caleb P. Bennett, and betook himself to the practice of his pro-

fession; and in the January following, as before stated, he was appointed Chief Justice of the State. Immediately after Mr. Clayton's resignation became known to his brother Senators, in December, 1836, he received from gentlemen of all parties in that body the highest professions of regard and esteem for his private character and public services; and on the 3d of January, 1837, Mr. Buchanan, of Pennsylvania, a political enemy, but a generous one, expressed in the warmest terms his admiration of his high character, pronouncing him "a man of as clear a head and honest a heart as ever adorned this chamber." Such is his language, as reported in the *National Intelligencer* shortly after.

State Convention.

In the year 1831, a convention of the people was held to revise our Constitution. The subject had been agitated for some years with more or less of spirit, until finally an act was passed to test the popular sense. The result being a majority of votes in favor of it, a convention was duly called, and held its session in the Presbyterian church in Dover, in November of that year. Though a member of the United States Senate at the time, Mr. Clayton was elected one of the ten persons to represent Kent County, and took a very prominent part in the proceedings of that body. Among the other members, were three from New Castle county, of great distinction among us, — Willard Hall, James Rogers, and George Read, Jr. To say

nothing of the other men of note and influence, who were their colleagues, it may be safely averred that, as a whole, the body was as well qualified for discussion and legislation, whether fundamental or merely parliamentary, as ever sat in this State. All the members were men of large experience in the affairs of life, and the four I have named were universally regarded as being without superiors as lawyers also.

The chief object of the convention was to reform the then existing judicial system, which for a long time had been felt to be unnecessarily cumbrous. There were two courts of concurrent jurisdiction for the trial of cases by jury — the Supreme Court and Court of Common Pleas; and the Associate Judges in each were laymen, incapable, of course, from want of professional education, of passing intelligently upon questions of law. Different plans were proposed and thoroughly discussed, but the convention finally settled upon that which now exists, — which was Mr. Clayton's plan, and has borne the test of experience for forty-eight years.

Other subjects engaged the attention of the convention, most of them of a minor character, but all received, at his hands and those of the other members, full examination. In fact, but one spirit animated the entire body of members — that of doing their full duty as delegates and as citizens, irrespective of any considerations but such as should govern men of integrity and patriotism. This convention gave us biennial sessions of the Legislature (I think if they could at that time have looked into futurity, they would have made them less

frequent even), and enacted a most important clause with respect to acts of incorporation — requiring the concurrence of two thirds of each branch of the General Assembly, to pass them. This feature was greatly approved by Mr. Clayton, who was well aware of the danger of multiplying corporate bodies, and of giving charters conferring such large powers as were inimical to the interest of the public. This the debates show. There was superadded to it, at the instance of Dr. Handy, of New Castle county, who was its mover, the additional clause, also approved by Mr. Clayton, reserving to the Legislature an express power of revocation. No case has yet arisen, to test definitely the full extent and meaning of this clause—the State having fortunately had no such conflict with any of her creations, as required the exercise of the power reserved; but the advantage of the prior provision has been experienced over and over again, in the defeat of purely selfish schemes, as well as some of very doubtful, not to say perilous, character—such as the mammoth bank charter, as it was then characterized, at the extra session of the Legislature in 1836. It will not be deemed amiss, I feel sure, to give the names of the persons who composed that convention — that it may be seen how careful the people of Delaware were, at that day, to select for important trusts, men of the very best qualifications in all respects. While these gentlemen were nominated for election by potitical parties, there was at that time a spirit so conservative, influencing the minds of politicians, that they rarely offered for public suffrage, any but

the best qualified men on both sides. The journals of our Legislature in those days show that the members of the Houses were selected from the most fit of the people; and that each House had always in it at least two men who, from education and habit, were able not only themselves to understand, but, by discussion and examination, to make their fellow members thoroughly comprehend, also, every proposition submitted for their decision. Every one knows that it is not so now, — that nothing is really discussed in the Legislature, — that, with the most honest intentions, members are constantly voting in ignorance of the real effect of measures, — and that, from want of experience, and of intelligent exposition of schemes of legislation, the body is liable to be imposed upon, and sometimes is grievously misled, by lobbyists, whose opinions are volunteered whenever occasion offers to give them.

The names of the members of the Convention were as follows:

New Castle County.—Willard Hall, James Rogers, George Read, Jr., John Caulk, John Elliott, Thomas W. Handy, John Harlan, William Seal, Thomas Deakyne.

Kent County.—John M. Clayton, Presley Spruance, Jr., Elias Naudain, Peter L. Cooper, James B. Macomb, John Raymond, Charles Polk, Hughitt Layton, Charles H. Haughey.

Sussex County.—Thomas Adams, Edward Dingle, William Dunning, James Fisher, James C. Lynch,

Joseph Maull, William Nicholls, Henry F. Rodney, William D. Waples.

Honors from Yale.

In the year 1836 occurred in the public life of Mr. Clayton, an event which gave him exceeding gratification; in fact, he regarded it with more pride and satisfaction, than any, prior to that time. He always so spoke of it. In the latter part of August of that year he received the following letter, wholly unexpected, and all the more agreeable because the honor it announced had never been even contemplated by him as likely to be conferred. Here is its language:

Yale College, *Aug. 25, 1836.*

Dear Sir: — It is with no ordinary pleasure that I have the privilege of stating to you that the corporation of this college, at our late public commencement, conferred on you the degree of Doctor of Laws. I am well aware that these academic titles are in danger of losing their distinction, by being distributed with too lavish a hand. But this college aims to proceed on the principle of selecting those who will *confer* honor, rather than receive it, by being enrolled in the list of its favorites. We present to you this expression of our regard, not with the expectation of elevating the rank which you already hold in public estimation, but as

a just tribute of respect to distinguished merit. I have the honor to be, with high and affectionate regard,

Your friend and servant,

J. Day.

Hon. John M. Clayton.

Mr. Clayton esteemed it a great honor to receive so high a degree from his Alma Mater — old Yale — but felt it to be greatly enhanced by the announcement made of it by President Jeremiah Day, in his letter containing such flattering language, and closing with expressions of his personal regard. He never assumed the title conferred upon him, but cherished it none the less, as a voluntary testimonial, from the highest quarter, to his merits as a public man.

Resignation of the Office of Chief Justice.

On the 16th day of August, 1839, Mr. Clayton resigned the office of Chief Justice, and entered with great spirit into the political canvass in support of the candidates of his party — Harrison and Tyler — and, in the course of the campaign, made, in and out of this State, some of the strongest political addresses which the contest called forth. Like every thing he really undertook, he did his work thoroughly, in that memorable struggle between what had then come to be known as the Whig party, and its opponent, the Democratic party. The whole country was agitated by politics; the

compromise that in 1833 had been fallen upon by patriotic men to save the country from civil war, was operating so inefficiently, to protect the industry of the country from competition with the cheap labor and money of Europe; the low prices of agricultural produce were so unremunerative to the farmer, that from one end of the land to the other came up the cry of *hard times*, and the demand of the people for a change in the public administration. The blame of this condition of things, by no means unproduced, as alleged, by the failure to re-charter the Bank of the United States, was laid, by the Whigs, upon the Democrats, their adversaries, who in turn charged it all, in the same way, upon their accusers — and so, there was about as lively a time as the country has ever witnessed. All the best orators of both sides took the stump, as we say, and poured forth their eloquence to greedy ears. It can be said, without exaggeration, that at no time in our history, before or since 1840, has such an array of popular talent and transcendent ability been made before the public. Some of my auditors remember, no doubt, that famous period, and wonderful outpouring of the people at Delaware City in the spring of that year. The attraction was the speeches to be made by *three men*, John M. Clayton, William C. Preston, and John J. Crittenden; and surely they came up to the full standard of popular addresses. The speakers were well known for their great oratorical powers, and men were unable to say which made the greatest speech. With their minds full of the sub-

ject of the country's distress, and their hearts of those high and swelling emotions, without which there can be no true eloquence, it is not to be wondered at that persons from a distance, familiar with the popular orators of the country, pronounced the addresses the finest they had ever listened to. Certainly they were very extraordinary. It was my good fortune to hear each of them, and their effect upon the mind and feelings was such that none were weary at the close, although for hours they had been standing in the sun of a day in May, almost as warm as midsummer.

Removal from Dover.

In the year 1842, in the spring, Mr. Clayton removed from Dover to New Castle, and took the fine old mansion known as the Read house, on Water street. He resided there, practicing law to some extent, and taking a deep interest in public affairs, until the season of 1845, when he removed to his new home on the State road below Hare's Corner, where he ever afterwards continued to reside. He had purchased the farm a year before, and built upon it a new and commodious house, with outbuildings of ample size. The Mexican war soon after occurring, and the brilliant success of Taylor having filled him with admiration, he called his home Buena Vista, in honor of one of his hero's great victories beyond the Rio Grande. The land of Buena Vista was extremely reduced; but having bought, built upon, and removed to it, with a

determination to become an agriculturist, he gave his thoughts and energies to that employment. When he took it in hand it was literally worn out from exhaustive tillage and neglect of the means of resuscitation, but he at once set to work to renew its wasted vigor, and soon created for himself the distinction of having accomplished more in the way of restoring the vitality of exhausted land, than any one before him. In fact the place soon came to be one of the very finest in the State, producing as high a yield of the cereal crops as any in that rich county. This was all owing to an unstinted use of money, judiciously employed. In order to know what to do, he commenced to read, and in fact devoured every work upon agriculture, scientific or other, that he could lay his hands upon; and, with his old habit when a lawyer in active practice, would talk of nothing else but his new pursuit. It was in vain to endeavor to draw his mind away from his subject; he would still return to it, with some such speech as this: "Oh, let us not talk of politics" (if that happened to be the theme), "my talk is of bullocks." After he had thoroughly stored his mind with book lore on agriculture generally, and the nature, qualities, and susceptibilities of soils, and had subjected his own to chemical analysis, so as to understand (as a wise man should) exactly what was best adapted to its nature, he laid all the best farmers of the county under contribution to find out what they had learned by reading, as well as himself, or by that experience of which as yet he had no store. Before he had been in the

country a year, it really seemed that he had found out everything about land, and the way to till it, the crops to be planted or sown upon it, and also the sort of stock that should be kept, and how much of it, so as not to make too great demand upon quantity of pasture provided for it, and provender gathered from the tillages. I mention these matters as illustrative of the spirit of the man — which was, to do everything he undertook with the thoroughness and intelligence success demands.

The Delaware Railroad.

Before I proceed to the narrative of this second period of Mr. Clayton's public political life, I will advert to his connection with a very important work in our State. He had always been a friend, and what was better, strong advocate, of all public improvements, national or State — never having felt any constitutional scruples of voting the public money for the one, or any reluctance to give his strong moral aid to the other. The loan of money to the old Wilmington and Susquehanna Railroad Company, since extended to the Philadelphia, Wilmington, and Baltimore Railroad Company, was made by and through his influence, which was all-powerful in this State, with the Legislature. The great results produced wherever railroads existed, and conspicuously in New Castle county, naturally turned his thoughts to what might be done for Kent and Sussex also; and accordingly, at the extra session of the Legislature of 1836, he caused to be passed the act to incorpo-

rate the Delaware Railroad Company, for the purpose of constructing a railroad from a point on the Philadelphia, Wilmington, and Baltimore Railroad, or the New Castle and Frenchtown Railroad, to the southern line of the State, in the direction of Cape Charles, with a branch to Lewes. He and General Mansfield, of New Castle county, and Col. William D. Waples, of Sussex, were appointed commissioners to cause a survey of its route to be made, and books of subscription to its stock to be opened; but the financial calamities that soon after befell the country rendered unavailing all efforts to procure the necessary funds to build a road. Long afterwards the charter was revived and made to serve the purpose of a projected scheme of travel from Dona Landing, in Kent, to Seaford; but nothing was done beyond grading that route, until the session of the Legislature of 1853, when an arrangement was made with the Philadelphia, Wilmington, and Baltimore Company, by which the route from Dover to Dona was caused to abandoned, and the line originally contemplated by Clayton, through New Castle county, was adopted in its stead. This is the history of the Delaware Railroad; and is given to show how great an interest Mr. Clayton took in internal improvements in his own State, as well as in the country at large, and how prompt he was to seize any opportunity to do the people of Delaware a service. He clearly foresaw the immense benefits that would accrue to us by a rapid mode of transportation of passengers and freight through the length of the State, and how much such an enter-

prise would develop those parts of it that lay remote from the navigation of either of the bays, Delaware or Chesapeake. At the same time he had greatly in view the final extension of the road to the end of the peninsula, so as to draw the passengers and products of the eastern part of the South through the counties of Virginia, Maryland, and Delaware, forming it. His original plan has never yet been carried out, but by some means or other, it probably will be, in the near future.

Re-election to the U. S. Senate.

At the January session of the Legislature of 1845, Mr. Clayton was again elected to the United States Senate, and by the vote of all the Whig members. He took his seat on the following fourth day of March, at the time of the inauguration of President Polk.

French Spoliation Bill.

The regular session of the Senate, after Mr. Clayton's second election, did not begin until the first Monday of December, next following his election. It lasted until late in the ensuing summer, and was a very exciting one, on account of the prevalence of the war with Mexico. There was opportunity enough, however, for Mr. Clayton to master a subject which had long been before Congress, and had been reported upon and passed by one House or the other several times, but

had not yet received the approval of the votes of both. I allude to what is known as the French Spoliation Bill. This measure was passed by Congress, to discharge the nation from the implied obligation that rested in honor upon it, to pay to those who had been despoiled in their commerce by France, at the close of the last century, and whilst the great political convulsions that shook the thrones of Europe were taking place, the amount of such spoliation. By an account of the claims made up, they reached a very high sum, all of which the United States released by the treaty with France, made on the 31st of July, 1801, and received full consideration therefor by its negotiation; such consideration being the abandonment by France of our previous guarantees of her West India possessions. Of course the nation thus made itself liable to pay what it had required from France in behalf of the claimants. Nothing can be plainer than that. However, under one plea or another — the staleness of the claims being, at a late day, the principal one (as if a Government should ever resort to such a defence) — no bill had ever been passed by Congress, recognizing the public liability for their discharge. Reports in favor of payment had been made, to the extent of at least twenty, one of the most prominent of which was by the old Revolutionary hero, General Marion. Only three have ever been made against them, and they were before the publication of the correspondence between the ministers of the two Governments, which led to the convention of 1800, that produced the treaty of 1801. Since

then, no committee of either branch of Congress has ever concurred in any report not strongly favorable to the claims, and they had also been approved by some of the first men in the nation; among others, the great lawyer, John Marshall, Chief Justice of the United States.

At the instance of friends interested in these claims, most of them representing the dead (for more than a generation had passed since they had been assumed), and particularly impelled by the appeals made to him by some of our own citizens, male and female, who were concerned in their payment, Mr. Clayton made up his mind to investigate the whole subject; and, if justified in so doing, to introduce the necessary bill to give relief to the claimants. Accordingly, he went to work (*more suo*), and the result was a bill for payment of the debt the country owed to the victims of the spoliations committed by France, and that it passed both Houses of Congress. All the old objections and arguments proved unavailing to defeat the measure: it passed — the country felt itself relieved of the imputation of injustice, the needy suppliants for the nation's justice were allowed their prayers for a bill, and all supposed that there was an end of the long struggle for justice. This was not so, however. The President, Polk, vetoed the bill, and the claims remain unpaid to this day. His reasons therefor, if they can be called such, appear, in his very brief message returning the bill unapproved, and the insufficiency of them, to Mr. Clayton's mind, are fully exposed in

his speech reviewing the veto, delivered on the 11th of August, 1846.

The Oregon Question.

Earlier in this same session of 1846, the Oregon question, as it was termed, was before the country. At this time all the territory west of the Rocky Mountains, and north of California, was known as the Oregon territory. Ever since our acquisition of it through the discovery of Gray of Boston, and the explorations of Lewis and Clarke, the British had claimed it, or the most of it, by reason of alleged prior occupancy, and its partial settlement by the subjects of the crown. On the 20th of October, 1818, a convention had been concluded between the United States and the King of Great Britain and Ireland, for the period of ten years, and afterwards indefinitely extended and continued in force by another convention, concluded on the 6th of August, 1827, by which it was agreed that the territory should, together with its harbors, bays, creeks, and the navigation of all rivers within the same, be free and open to the vessels, citizens, and subjects of both parties, but without prejudice to the claim which either might have to any part of the country — and with a proviso that either might annul the convention by giving twelve months notice to the other.

A resolution had been introduced into the Senate by Mr. Allen, of Ohio, and referred to the Committee of Foreign Relations for the abrogation of the convention

upon the prescribed notice. The committee reported to the Senate, in its stead, one of similar import, but providing that the twelve months should not begin to run until the receipt of the notice by Great Britain. Other resolutions had been presented to the Senate by Messrs. Hannegan, of Indiana, Calhoun, of South Carolina, and Crittenden of Kentucky. This was the state of things when Mr. Clayton rose in his place in the Senate on the 12th of February, 1846, to speak upon the subject. The country at the time was in a high state of political excitement. Those who brought the subject forward had succeeded in impressing the masses of the people with the idea that our right to the whole of Oregon was incapable of successful question, and that the British were trying to take it from us. Of course the joint occupancy, provided for by the convention, could not but produce as it did collisions of various kinds, if not actually physical, — the citizens or subjects of both parties occupying and trading, and being without any law except the unwritten common law of both their lands. Such conflicts were exaggerated; and, as no question can arise, with us, that is not made to take, sooner or later, a party form, it was not long before it turned out that one party was on one side, and the other on the other side. Leaders on both sides sought to make the most of the crisis; those of the dominant party charging their opponents with want of patriotism, in not taking what was called the American side, the Whig leaders retorting by accusing theirs of seeking to bring about a war to restore the waning popularity of their party.

There was an immense display of so-called patriotism at this time, — the multitude, stimulated by appeals to their nationality, clamoring for "the whole of Oregon or none," and adopting enthusiastically the cry, "fifty-four forty, or fight."

It was during this excitement that Mr. Clayton took part in the fierce debate that was going on in Congress over this exciting topic. He first caused to be read the resolution of Mr. Allen, next that of the Committee of Foreign Relations; and then Mr. Crittenden made a motion that the resolution submitted by him should be substituted, by way of amendment, for both of them. His resolution, after reciting the convention for joint occupancy, sets forth, in continuation of the preamble, that it has become desirable that the respective claims of the parties should be definitely settled that said territory might no longer than need be, remain subject to the evil consequences of the divided allegiance of its population, and of the confusion and conflict of national jurisdiction, dangerous to the cherished peace and good understanding of the two countries, and that steps should be taken for the abrogation of the convention in the mode prescribed in the second article thereof, that the attention of both countries might be most earnestly and immediately directed to renewed efforts for the settlement of all their differences and disputes in respect to said territory. The resolution itself authorized the President, in his discretion, to give to the British Government the notice, required by its aforesaid article, for the abrogation

of the convention of the 2d of August, 1827; but contained a proviso that, "in order to afford ampler time and opportunity for the amicable settlement and adjustment of all their differences and disputes in respect to said territory, said notice ought not to be given till after the close of the present session of Congress." In support of the Crittenden resolution Mr. Clayton made his Oregon speech, one full of patriotism and true statemanship, — in which he conclusively showed our utter unfitness to embark in any war to maintain our pretensions in that distant region. The resolution of Mr. Allen, and that of the committee, did neither of them hold out any idea other than that negotiations for the settlement of the dispute were not contemplated, — the former *directing* the President to give the notice, and the latter *advising* it, and neither of them having any qualification, or phrase, holding out to the country the prospect of anything but war; it being well known that the British never retreat from any position upon a threat of expulsion by arms. The resolution of Crittenden, and the speech Mr. Clayton delivered for it, by its tone and temper, and the spirit of candor and non-partisanship which characterized it, did more to cool down the fever of the impulsive, and rob the agitators, in and out of Congress, of their control over the public thought, than anything that, up to that time, had been done or attempted. This speech, and the others which followed it, and the constancy of leading papers throughout the country, elevated the public mind above the strifes and

the tumults of struggles for party ascendency, and caused it to contemplate the question presented, uninfluenced by aught but sober reflection. The consequence was that the whole trouble was settled in the only rational mode that had been suggested. The terms of the treaty were most advantageous to us, though entirely just to England. By them we were secured in all that part of the disputed region bounded northwardly by the line of the 49th parallel of latitude, until the middle of the channel of the Straits of Fuca is reached, and then down said channel to the Pacific.

So great was the confidence all over the country, among all classes and partisans, in the wisdom and sagacity of John M. Clayton, and such their belief in his sturdy patriotism, that I think I hazard nothing in saying, that there was hardly a man in the national councils whose speech would have made such an impression upon the public as his did, especially as it ran counter to the current that had already set so strongly in favor of expelling the English upon the treaty notice. At the conclusion, he paid the following just compliment to the valor of our people when called upon to support a just cause:

"The people of the United States have not manifested any want of confidence in the Executive; they have not formed themselves into parties upon this question; the difference among them, so far as any difference exists, arises from an honest difference of opinion as to the

foreign relations of the country. I believe that my countrymen are as ready to go to war in defence of their just rights as any people on the face of the earth. All that the Senator from Ohio (Allen) said, and all that he can say, in regard to their bravery or their ability to protect themselves, I heartily concur with. I do not underrate their prowess in battle — far, very far from it. But I believe if they could all be gathered together in one mass in front of the President's mansion, knowing that he has the power to decide the question whether we shall have war or peace, they would address him in some such language as was used to the conqueror of Agincourt, when he called his council around him and asked them to give him their honest, sincere opinion as to his right to go to war with France. On that solemn occasion they are represented by the greatest of our dramatic poets as saying to him:

——'God forbid
That you should fashion, wrest, or bow your reading,
Or nicely charge your understanding soul
With opening titles miscreate, whose right
Suits not in native colors with the truth;
For God doth know how many, now in health,
Shall drop their blood in approbation
Of what your wisdom shall incite us to:
Therefore take heed how you impawn our persons,
How you awake the sleeping sword of war;
We charge you, in the name of God, take heed!'

"Sir, while I admit, nay insist, that my countrymen are as brave as any people on earth, and as prompt to vindicate their rights; and while I well know that if you convince them that their title to Oregon is clear and indisputable, they will be as able and as

ready to maintain it as any nation in the world can be: I would charge this Senate also, should they be called upon to decide upon the question of war or peace, *to take heed.*

"If we are to have a war with England, an empire more powerful than ever was Rome in her palmiest days, let us have a just cause; then we shall all strike together, and I have no doubts or fears as to the issue. But first let the people, first let ourselves, be convinced that we are in the right. Do not let us go to battle in a bad cause; in one that is righteous, I know that we can fight as well as any people that ever lived.

"If this matter must come to a war, the responsibility will rest on the head of the President and his cabinet; and it will be, as has truly been observed, such a war as the world never yet saw. It will be the 'carnival of death, the vintage of the grave.' It will be a war between men who profess to be Christians; with a people allied to ourselves in feeling, more than all the nations of the world; a people far advanced before all mankind in intelligence and the arts and improvements of civilized life; a nation which approximates more than any other to our own principles of free government; a people who 'know their rights, and knowing dare maintain them'; a people skilful in war, brave to a proverb, and amply supplied with all the means and sinews of war.

"If we go to war with this people about our title to Oregon, at this time, the responsibility will not rest on me. Not on me — not on me, or mine, O God! let any portion of the guilt or the sin of such a war ever be found."

The Mexican War.

The year 1846 will be remembered as that of the commencement of the war with Mexico; the battle of Palo Alto having been fought in April of that year. It was the firm belief of Mr. Clayton and his political associates, the Whigs, that this crisis was unnecessarily brought upon the country by the Administration, to promote the supposed interest of the South by the acquisition of territory adapted to slave labor. Whether they were right or wrong in this opinion, is practically unimportant at this day. War commenced, as was alleged, by the act of Mexico; and at once the spirit of nationality was aroused all over the country, and the masses of the Whig party fell in with the popular movement in favor of it. The Whig leaders found themselves in an awkward dilemma; to oppose the war would be death to their party; for the first shedding of blood was by the Mexicans; and when blood flows, all reason is overborne by passion. They therefore were driven, by the requirements of party preservation, to smother any feelings of opposition to the conflict. But they still desired to preserve their consistency in so far as to hold their opinions, and express them if necessary. But their opponents intended they should do one of two things; either oppose the war out and out, or admit that it was just. To oppose it would destroy them with the masses, who, though not desiring war more than the few, yet strongly supported it when

made, from the feeling of patriotism; and to admit its justice would degrade them in the eyes of the most intelligent of their followers. It was the real purpose, however, of their opponents to compel them to show hostility to it, and they hit upon the ingenious device of attaching to their bill presented to Congress, for the means to prosecute the war, a preamble, or recital, declaring that war existed by the act of Mexico; and they refused to allow a vote to be taken upon it separately, but required that it should be voted for along with the first section which contained the enacting clause. In vain did the Whigs inveigh against the injustice of this course, alleging, and truly, that no evidence had been furnished the Senate, which any one had had time to examine, that war existed at all, and that some delay, if but for a few hours, should be granted for consideration of the proof alleged to be contained in the documents accompanying the message of the President to the Houses. The bill passed, and received the votes of all the Whigs but two who voted; but they took care to place themselves — as the debates show — on the ground that as the country was in the war, she should be supported by all.

This was the feeling that actuated Clayton, who declared repeatedly in debate that he was not only willing to vote the sum of ten millions asked for by the bill to support the war, but any sum that might be needed for that purpose, whether in the Treasury or not; but he claimed, and constantly exercised, the right to speak of the war *per se*, in such terms as he

chose; and they were never of approval, nor stinted in condemnation.

It is not to be denied that the feeling of nationality, which may be said always to have been very conspicuous in Mr. Clayton, was too strong to be suppressed by any considerations of pure justice. Like all other men of high tone and spirit, he was a devotee of the sentiment, "Our country first and always." It was with him no mere catch phrase to be used upon occasion, but an inspiration of patriotism that was interwoven with all his feelings in relation to public concerns. This may be called, by philosophizing moralists, a weakness; it may have been so, but such is not not the view most people take of it; for, after all, it is of similar quality with devotion to family, which we all feel and act upon, and to party also, which with most men is stronger than devotion to country.

This war produced General Taylor — or rather developed his fine qualities as a man and a soldier, and secured for us a vast extent of territory which for several years gave us great trouble on account of the struggles of the North and South to impress upon it their respective favorite notions of civil and social government.

During the progress of the war, no man took a deeper interest in it, and rejoiced more at the success of our generals, than Mr. Clayton — who throughout his whole life felt the strongest sense of admiration for great military commanders. The early and bril-

liant success of Taylor, with his gallant and hitherto almost untried forces, excited a feeling of admiration all over the country, while the later and more imposing victories of Scott and his troops, filled to the brim the measure of the country's exultation. Out of this feeling grew a kind of spontaneous purpose among men of all parties to reward the former by elevating him to the Presidency. Accordingly, he was ardently supported by Mr. Clayton, who by common consent was considered his great champion in the old States, — was nominated by the Whig Convention, in 1848, and was elected triumphantly at the then approaching election.

At the sessions of 1847 and 1848 Mr. Clayton was constantly in his seat, and participated in the debates upon all subjects of importance that came before Congress, displaying at all times that familiarity with them, and desire that the proper conclusions should be arrived at, which ever characterized him as a public man.

At this session the subject of the newly acquired territory, and what should be done with respect to it, was presented to Congress for its action. The South naturally looked to the acquisition as a means of counteracting the growth of Northern influence, by colonization of the Northwest; for it was supposed that the territory would be settled, chiefly, by Southern people, carrying their institution of slavery with them: and the North in its turn determined to defeat such expectations by refusing State organization without prohibition of

slavery. Here was a dangerous condition of things; and all the arts of partisanship, and of demagoguery, were employed to fan the excitement and turn it to the account of their respective sides. Though Mr. Clayton had the most perfect trust in the union-loving sentiment of the people at large, yet he well knew, from the observation of his whole life, that the passions of men ofttimes obtain such control over reason and patriotism, as to impair their influence. He knew that for a long time there had been growing up, generated by the slavery subject, a geographical distinction among our people — that feeling against the encouragement of which, the Father of his Country had so earnestly warned his countrymen in his farewell address — and his knowledge of human history taught him that hostilities between peoples are as often the outgrowth of mere lineal divisions, as of diversity of race or interest. *The North* and *The South* were, with him, ominous words, portending, by their very sound, evil to the country, at some day not distant. He had seen, with regret and disapproval (though a citizen of a slave State), a disposition on the part of certain impetuous, though able, Southern men, in and out of Congress, to press what they asserted to be the claims of their section, to undue lengths; and on the other hand, he could not shut his eyes, if he had wished, to the fact that in one way or another, the abolitionists of the North were gradually securing converts to their dogma that slavery was a crime, and augmenting their ranks with all that large class, who, not exactly adopting that theory, yet believed that the

interests of the whole required its restriction within its then legal limits. It is not to be denied that a great deal of this latter feeling grew out of the fact that the power of one of the great parties was supposed to rest upon the support of the slavery question — which, being one of pure interest, could at any time, when the emergency should arise, compel all of the section where it prevailed, to act in concert — or, as we say, *solid*.

As soon as the election of 1848 was over, the eyes of the whole country were turned upon Mr. Clayton, as the most suitable person for the office of Secretary of State. The great leaders, Clay and Webster, were practically out of the question; both having desired the Presidential nomination, neither having supported Taylor with much real spirit, and the latter having failed to show any signs of acquiescence even in the party's choice, until very late in the campaign, and after it was wholly unneeded. But from the first — nay, before any nomination was actually made — Clayton preferred Taylor to either of the others; partly on mere party grounds, the popular heart being with the hero of Buena Vista, and his election hardly a matter of any doubt; and partly, also, because the traits of character displayed by Taylor during the war, his placidity of temper, constancy of mind, unselfishness, freedom from passion and fanaticism, and high sense of duty, all seemed to fit him to be the Chief Magistrate of the nation. I may be allowed to say, at this lapse of time, that these high qualities were shown during

the whole period of his brief term. Mr. Clayton was unknown personally to General Taylor,— they never having met,— but the latter was a close observer of public affairs, and had long before been accustomed to consider him one of the chief men of the nation, and in whom the good of the country was a fixed and settled principle. Besides, he was aware that Clayton had openly favored his nomination over that of one whom he had sustained from the time he entered public life (the great leader, Henry Clay), and that he had devoted the season of the campaign to promoting his election. All this inclined him to seek out Clayton as his chief adviser; and he was encouraged to do so by his lifelong friend and chief advocate beyond the mountains, John J. Crittenden. In due time, the tender of the place of Secretary of State was made by General Taylor, and accepted. They first met at Cincinnati, when the new President was on his way to Washington to be inaugurated. Of course it then became certain that the adviser of the old soldier President was to be Mr. Clayton, than whom no one could have been more acceptable to the people. He was universally regarded as a man of pure purposes, and superior ability for the post, from his high patriotism and habit of investigating to the very bottom every subject which he was called upon to consider. Besides, he was the follower in the ordinary sense, of no man — though having the highest opinion of the great intellectual qualities and party leadership of one of the disappointed candidates — and

had no retinue of relations, or local politicians, to take care of. His local friends were not office seekers, and his known hostility to nepotism forbade the idea that he would, in the distribution of favors, be guided by any family feeling. It is a fact that no kinsman or connection of his was appointed to anything during Taylor's administration. I once ventured to say to him that I should like to be a bearer of despatches abroad, with compensation, and was promptly informed, in answer to my application, that he would not use his place to promote the interest or wishes of any member of his family. The other cabinet ministers were not selected until very near the inauguration; though two of them, Crawford and Preston, were persistently urged by two conspicuous Georgians, who claimed that their services to the cause entitled them to ask so much. Perhaps to these may be added Ewing of Ohio; though the Department assigned him was not created till the last day of the session of '48–'49. His conspicuous abilities and warm support of Taylor required, however, that he should be chosen for some prominent place. I have reason to believe that Mr. Johnson as Attorney General,[1] and Mr. Meredith as Secretary of the Treasury, were Mr. Clayton's own choice. I know positively that the name of the latter was never mentioned for any place until Sunday, the 4th, and the inauguration took place the next day; it was presented to the President by Mr. Clayton. Certainly the cabinet of General Taylor was a very able one, composed as it was of Clayton, Ewing,

Johnson, Collamer, Meredith, Crawford and Preston; but the leading spirit of the Administration was the Secretary of State. Whilst the President gave to everything his position required of him a sufficient degree of personal attention, and was well able to form an intelligent judgment upon public questions, as well as those that affected his own Administration generally, yet it is no reflection upon him nor upon others to say that he ever looked to Clayton as the one man on whose judgment he could safely rely. His friends had told him to trust Clayton unreservedly, and he never departed from their counsel. While on the most intimate terms with other advisers, and having perfect faith in them; yet the repose of confidence in wisdom, prudence, sagacity, and fidelity, was in and for Clayton.

Perhaps no man who ever took high office for an unselfish purpose, had more to contend with in his career than the subject of this memoir. As I have before stated, both the great Whig leaders were candidates for the Presidency when Taylor was nominated, and Clayton preferred the old soldier to either of them. This was his offence; and it was never entirely forgiven. One of them, and the greater of the two intellectually, had no reason to expect any special consideration; for their relations had not for years been very intimate, and he had no strength as a party man outside a small body of negative politicians in New England and New York: negative, however, only in the sense of being inactive. The other had claims,

from his conspicuous and gallant leadership through many long years, when his high talents and brilliant advocacy of principle had produced for him a feeling almost akin to idolatry, and from their long standing friendship and perfect community of view upon almost every question of national concern. But there were higher purposes than serving men, that influenced John M. Clayton. With a feeling that may have been created or influenced by mere partisanship, but nevertheless a perfectly sincere one, he believed that the affairs of the country ought to go into the hands of the Whigs: and the former defeat of Mr. Clay, the intense hostility felt towards him by his opponents, the Democrats, so strong as to forbid the idea that he could secure any votes from their ranks, and his fatal weakness in writing the Texas letter — known to be no true expression of his mind, and treated with derision by his foes and received with painful regret by his friends — decided him to look to Taylor as the man who could be elected, and would best meet the requirements of the times, and destroy the acrimony of party contests. It was not expected that either of those gentlemen would be a warm supporter of the Administration, though it was that of his own party; but the hope was cherished that they would at least show a friendly spirit towards it; for that does not cost much. But neither of them ever did so. From the first there was coldness and want of sympathy; afterwards, in ways that cannot be described, there was something more. A time had come in their affairs when, as it happens to all men, people began to find

out they could get along without their aid; and this is the cruelest blow fate can inflict on a public man. But in the eyes of many they were great leaders still, and the wonder was why they were not puissant with the Administration? Their friends complained that they were not treated properly. When one of their favorites wanted office and did not get it, he contrived to make his leader believe it was owing to his well-known fidelity to him. Thus the Administration obtained no support at the hands of the rivals of the President for the nomination, but almost the contrary. This of course was reflected by the newspapers also. Some of the strong party sheets had nothing ever to utter, of praise, but sometimes ventured upon implied censure of the Administration. One professedly neutral paper, of wide circulation, made itself conspicuous by attacks upon it. Nothing could be done right; every thing was done wrong; and every one disappointed in his ambition of serving his country, abroad or at home, leveled his arrows at the Administration, and always aimed at Clayton, who was regarded as its head and front. In fact, he was beset on all sides, by reason of this cold reserve, if not more, of Webster and Clay; and if he had not been inspired in his course, all through it, by what he believed the true interests of the country, his party (where such a consideration was allowable), and a perfect unselfishness, he would have broken down utterly. But when he became aware of the state of feeling towards himself personally, for no real wrong on his part, he resolved that he would fight his assailants, open and concealed,

with the only weapons he could employ, capacity and fidelity to his trust, and resolute adhesion to the right. Though his own private affairs were suffering for attention, and he had repeatedly expressed to the President a desire to retire to private life, he yet remained at his post, until the decease of the President, which occurred on the 9th of July, 1850, gave him the liberty of return to Delaware, which he so much desired.

Before entering upon a view of the Administration of General Taylor, or rather, a consideration of some of its features and acts, I recall your attention for a moment to a debate which ran in the Senate for a long time in the summer of 1848, upon the subject of governments in our newly acquired Territories of Oregon, California, and New Mexico, called "the debate on the Territorial or Compromise Bill." This bill was reported to the Senate by a special committee of eight members, four from the free and four from the slave States, and equally representing the two great parties, viz.: Messrs. Clayton, Calhoun of South Carolina, Underwood of Kentucky, Atchison of Missouri, Phelps of Vermont, Clarke of Rhode Island, Dickinson of New York, and Bright of Indiana; and passed that body on the morning of July 27th, by a vote of 33 yeas to 22 nays. On the next day, the 28th, it was taken up in the House; and without debate or discussion, it was, on the motion of Mr. Stephens of Georgia, laid on the table, by a vote of 112 yeas to 97 nays. The Oregon Bill, having afterwards passed the House, was presented to the Senate, when Mr. Clayton arose and seized the

opportunity to defend the Senate bill. After stating that no opportunity was offered to discuss the Territorial Bill whilst it was on its passage in the Senate, he entered upon a defence of it against those who had assailed it, and showed how it had been misunderstood by the extremists of both parties. The particular feature of this bill (for he had drawn it as chairman of the committee) was, that it promised an effectual means, if it had been adopted, of settling forever the slavery question, as to all the territory acquired from Mexico by the treaty of peace of Gaudalupe Hidalgo. It provided that a writ of error or appeal should be had, at the suit of either party, in case of a claim of freedom by any negro in either California or New Mexico, to the Supreme Court of the United States. Every power which Congress ever had over the subject was reserved, because no word in the bill proposed to devolve that power on the court, or any other tribunal. The power of Congress over the subject was declared by him to be political and legislative, and that of the court simply judicial. "The great question," he said, "to settle which the select committee was raised in the Senate, was whether the citizens of the slaveholding States of this Union have a constitutional right to emigrate to the Territories, which have been acquired by the common efforts of all the States, with their slaves." This question had been debated for weeks in the Senate with a degree of fierceness that threatened the most serious consequences, when, to allay the excitement, and find

some mode of settling it, fair to all, the idea occurred to him of raising the special committee which reported the Territorial or Compromise Bill, with the entirely new feature embodied in it, that the question causing so much heat in debate, and so much alarm in the minds of those who knew the lengths to which the fell spirit of partisanship will drive men — of the right of the slaveholder to carry his property to one of those Territories and hold it there, should be submitted to that arbiter which all men respected, not only as a pure body, but one created to settle grave questions affecting the welfare of the whole people in the protection of their constitutional rights, the Supreme Court of the United States. One would suppose that men of all shades of political thought or personal interest, would have caught at, and supported, a scheme so happy in its conception and statesmanlike in its fairness. There could be nothing juster to both sides — the one claiming that the Constitution threw the mantle of its protection over the institution in the public domain, not yet governed by State laws, and the other that slavery can exist nowhere but by positive law, which no one claimed had ever been enacted to recognize it. A fairer mode of settling that question than by its submission to judicial decree, and that of such a court, cannot be conceived: but the interest of party (I speak not now of mere political divisions) was stronger than reason or candor. The geographical distinctions against which Washington had warned his compatriots, and which were sure to be strength-

ened and possibly fixed by the agitation of the question, were contemplated by the foes of the Compromise Bill; but the warnings of the Father of his Country were unavailable to stay the strife. Misrepresentation on the one hand, and the rancor of the discussion on the other, prevented judgment from asserting her authority. Passion ruled the hour when that bill was defeated, and has done so since, in relation to other grave subjects, from time to time, and will do so hereafter, until men shall come, by some terrible blow inflicted upon the vitality of their free republican government, to regain their reason. It is with nations as with individuals; they become drunk with passion and excitement, requiring some sudden stroke to "stun them into sobriety."

In defending his proposition — for submission of the question of the right to carry slaves into the Territories and hold them there — to the Supreme Court ultimately, he used this fine language:

"The Senator from Tennessee (his friend, John Bell), as well as others, inquired of me, how this bill could settle the controversy between the slaveholding and non-slaveholding sections of the Union. I answer — precisely in the same quiet mode by which the court in the last resort provided by the Constitution, has decided a thousand other questions which have arisen between the people of different States and sections of the Union. It is the greatest glory, the proudest boast of our countrymen, that they are governed only by *law*, and *that* law made by their own

servants and interpreted by men selected by them or by their agents. They bow to the majesty of the law, in deference to themselves. Their own self-respect teaches them to obey the edicts promulgated by their authority, or that of their fathers. For this reason, the true American is a more law-abiding being than the citizen of any other nation on earth. The inscription on the monument of the Spartans who fell at Thermopylæ was, "*Go, stranger, and tell the Lacedemonians that we lie here in obedience to the laws.*" Obedience to the laws, is the cognate spirit, if not the characteristic, of rational civil liberty. Resistance to tyranny is the result of the same love of freedom which dictates submission to the civil magistrate of our own choice; and every truly free people on earth, have been distinguished for their deference and respect for the judgments of their civil tribunals. When we shall so far degenerate from the spirit of genuine civil liberty as to despise and trample under foot the solemn decrees of the great judical arbiter appointed by the republicans of the olden time, to decide our controversies, allay our heart-burnings, and restore fraternal feelings among the contending geographical divisions of our common country, we shall cease to respect the memories of our forefathers, and to honor our own truth."

This is one of the ablest and most statesman-like speeches that was ever made by Mr. Clayton in the Senate — showing, as it does, his great sagacity as a public man, and the pure patriotism that inspired all his actions. In it he felt called upon to refer to the course of Senators individually, and he did it with a fearless speech, addressed as well to his personal

and political friends, as to those opposed to him. He had a cause to maintain, which he believed a good one; he had a measure to vindicate, which had been denied justice; and in all his life, professional and political, when these circumstances existed, he spared neither friend nor foe, who stood opposed to him. Not that he descended to what are treated as mere personalities, but he referred to arguments or assertions as those of individuals mentioned and employed the strongest thoughts and most vigorous language, to expose the fallacy, insincerity, or partisanship of their positions. He plainly, but sorrowfully, viewed the question he attempted to settle by his bill, as dangerous to the Union he loved so much. No one can form an adequate idea of that speech by extracts from it, or statement, generally, of its language; it requires to be read throughout, and will be found to be a complete view of the state of the slavery question at that time, the scheme of the bill to settle it, the hostility it met with, particularly from the North, and an exemplification of his concern for the safety of the country if the strife could not be allayed. At the close of it he used this prophetic language:

"The refusal to submit to the arbitrament of the very tribunal which the founders of the republic established — the scorn with which the Constitution has been treated, in the contemptuous repudiation of a sacred constitutional right to try the question made by one whole section of the Union — the contumely and

reproach now poured out without stint or measure on both sections — and the shouts of victory by one section over another, as if a triumph had been achieved over a foreign foe,— all announce not only the dawning but the perfect day of an attempt to alienate one portion of the Union from the other. How and when is this suicidal madness to be arrested? It is now palpable that no bill of any kind, to organize governments in the Territories acquired from Mexico, can pass Congress at the present session, though ineffectual efforts will be made to pass one; and that he who shall attempt to stand between the contending sections in their hostile array hereafter, will be the first man struck down by both. Who will take the hazard of that position hereafter? Gentlemen both of the North and South will now go home and seek to sustain their respective grounds by inflammatory addresses to their constituents. The people will become excited, and their representatives will return to these halls at the next session still more riveted in their opposition to one another. Before Congress can act on this question, it may run beyond the reach of any settlement. Is there not real ground for alarm? Sir, I envy not that man's feelings, who can look upon the approaching struggle without apprehension. The fiery Southron, finding the doors of justice barred against him, may seek to storm them, or to enforce his claims by violence; and in that event, the very first men to shirk responsibility will be those who have provoked this tempest, by their violent denunciations of all compromise and all justice."

He closes with this expression of devotion to the Union, whose perils filled his mind with gloom, —

enlivened, however, by the hope which never wholly deserts the breasts of any who have the same confidence which he had in the ultimate good sense, and, at all times, honest purpose, of the masses of his countrymen :

"For myself, I confess that there is one object which I never could and never shall be able to contemplate, in imagination, without terror. It is that of my native land, rent by discordant, sectional factions, divided and torn into fragments, and finally drenched with fraternal blood. To avert that calamity, I will, at any time, sacrifice all other considerations, and seize upon the first opportunity to allay feelings which can, by any possibility, lead to such a catastrophe. And, gloomy as the prospect may be, I will not cease to hope. The bill which was defeated in the House by fifteen votes, passed the Senate by a majority of eleven. Of two hundred and sixty-four votes in both Houses, the majority against the bill was but four. No other proposition could have, possibly, approached so near to a successful result. In the future, therefore, amid all the darkness and difficulties of our position, we may finally find our safety in the judiciary, to which the Constitution itself directs us. On the entablature over the eastern portico of this capitol stand, in beautiful relief, the marble figures of Hope, Liberty, and Justice. Hope, leaning on her anchor, is represented as inquiring of Liberty, how the Constitution, and the Union it secures, may best be preserved? and Liberty points to Justice for her answer. The moral ought never to be forgotten. Let us look to the court which the charter of our liberties has established. That is the diamond which glitters through the gloom that

surrounds us, and by that sacred light, we may yet be directed to the preservation of our glorious Union, without which the hopes of all men who love liberty must sink in darkness forever."

If the bill in question had passed both Houses, it would, no doubt, have received the approval of the President, and thus the way would have been opened for settlement of our troubles at that time, and afterwards, growing out of the dispute about the right to carry slave property into the Territories, and hold it there. The wonder is that the North, which held the majority in the House at that time, did not seize the opportunity to bring a question so purely legal before the judiciary: but the denunciations of the abolitionists, and that tenacity of purpose which the passengers of the Mayflower transmitted to their posterity, forbade it to consent to any thing short of surrender by the South. The high spirit of the latter would not submit to that: and therefore agitation continued, alarm spread, hopes sunk, and the country gradually but steadily drifted into a sea of blood and havoc, lashed with all the fury which fratricidal strife could create.

When the Administration of General Taylor commenced its action, no government had been provided by Congress for these Territories of California and New Mexico: and the people of the former — that is, the emigrants from the old States, before and after the treaty of peace, — were clamorous for protection from Washington. They complained, and justly, that they

were exposed to constant danger, from the want of Governmental recognition; and they claimed that their case was one that called for assistance: but their complaints had not hitherto received much attention. It was discovered, perhaps, that the emigrants would be likely to declare against slavery, and those who governed the country then, were not concerned that a new State should come into the public family, which would be sure to send anti-slavery representatives to Congress. The Administration of Mr. Polk, however, had not been exactly indifferent to their appeals — an agent, Mr. Vorhies, having been dispatched to California to give the people there such assurances as was thought best to keep them quiet and inspire hope: but it is not too much to say, that the food was not such as the craving appetite of the Eastern emigrants sought. They wanted something more definite than vague words — some faith that Congress would at once act for their case, or leave them at liberty to do it for themselves. All that was yielded to them was the declaration, that the government established by the military occupation was displaced, and the former one reinstated, and that this state of things would remain until a Territorial government was given them by Congress. This assurance was sent from the State Department to the Californians through the medium of the instructions to Vorhies, dated the 7th of October, 1848.

In less than a month after the inauguration of President Taylor, viz., on the 3d day of April, 1849, Clayton delivered to Thomas Butler King, a distin

guished citizen of Georgia, and former member of Congress, a letter of instructions for his guidance in the agency, then conferred upon him, of visiting California and performing such duties as the President charged him with. They differed from those of Vorhies (who was recalled), and showed a warmer interest in the welfare of that distant people; assured them of the protection of the Government, its solicitude for their welfare, and that the naval and military commanders there would be instructed to co-operate with the friends of order and good government so far as could be useful or proper; and they said, also, and the agent was instructed to assure them, that it was the sincere desire of the President to protect and defend them, in any formation of any government, republican in its character, thereafter to be submitted to Congress, which should be the result of their own deliberate choice. "But," added the Secretary, "let it be at the same time distinctly understood by them, that the plan of such a government must originate with themselves, and without the interference of the Executive."

On the 17th of January, 1850, the Senate passed a resolution calling upon the President, in every form of expression deemed best calculated to draw forth everything, for information, as to what had been done by the Executive authority with respect to California and New Mexico — the territory acquired by the Treaty of Guadalupe Hidalgo. The call was promptly replied to on the 23d following, and it is from the communication to the Senate by the President, that the fore-

going facts are stated. With the frankness which characterized the old soldier, the President did not content himself with a simple response to the call; but treated the general subject at some length, and related all he had done with respect to the formation by the Californians of a State Constitution. This course, he says, was in accordance with his wishes, but was not taken because of them, as he had been anticipated in his action by agents sent there by his predecessor. He gives as his reason for favoring a State government, instead of a Territorial one — that the latter, when moved in Congress, would be sure to excite the same bitterness that had before existed on similar occasions. This was a wise course to pursue, and shows how free from all partyism, or sectionalism, the Administration of General Taylor really was. The people of California have reason to be very grateful to the Administration of General Taylor for the active part it took in aiding them by its countenance and good wishes, in springing into political life at one bound, instead of halting upon the Territorial plane. It was not however till the year following this, and after the good President had been gathered to his fathers, that the Constitution, prepared by the California people, was approved by Congress, and the State created: nor was it until after the measure of admission had been wrested from the place given it in the celebrated Omnibus Bill of Mr. Clay, and presented to the Senate by Mr. Pearce of Maryland (an able and strong friend of Mr. Clayton, and co-operator

with him for the benefit of California), that justice was at last done to her people.

The Hungarian Revolt.

The President and Secretary of State were both ardent friends of freedom — of the right of a people to work out their own political destiny, and manage their own individual concerns in their own way. The policy of our Government and the desire of our people had always been to recognize, and help (so far as countenance and encouragement could do it) to come into the family of nations, those of other lands who were able to maintain autonomy, and especially such as showed a desire to adopt institutions similar to our own. The sympathies of Americans have always been warm and active for the oppressed everywhere; they had ever remembered, unlike the Israelites who had to be constantly reminded of it, how, by the favor of the Most High, they had been enabled to throw off the yoke of oppression. I think that no man was a more ardent lover of republican liberty than John M. Clayton. I have known him sorely tried by the defeats of his party in its struggles, when everything seemed to favor its success; I have seen him greatly crushed and broken by that which he deemed disastrous to the country's interest; but there was never utter despair, and never the indulgence of a belief that any other form of government was better than that we had. His confidence, that the good sense and patriotism of the

people at large would in the end overcome the mischiefs done by attachment to mere party, was never, for a moment, seriously shaken.

Hungary, under the lead of extraordinary men, chiefest of whom was Kossuth, had determined to throw off the chains of Austria, and re-establish her ancient autonomy as a political State. The people, of America of all classes, looked with eager interest at the strife between the spirit of despotic rule on the one hand, and rational freedom on the other. Our people, old and young, sympathized with the Hungarian patriots, and anxiously looked for their success. These sentiments were fully shared by the Administration of General Taylor; and accordingly, very soon after the struggle began, and with a view of being kept constantly advised of its progress and prospects of success, Mr. Clayton dispatched a private messenger, or envoy, from his Department to Europe, to observe the struggle and study its causes, objects, purposes, and prospects, on the spot, with a view to the recognition of that people by our own Government, at the earliest moment when it should become certain they could resist, with success, the imperial efforts to re-subjugate them. The President and Secretary particularly desired that if Hungary could sustain herself, the United States should be the first to recognize her. This would have been eminently appropriate, from her anomalous situation as a republic surrounded by despotisms, — a sister State in the wide sense of that term. Besides, she would have a long border, with

ports and harbors from the boundary of Austrian Venetia on the northwestern, almost to the kingdom of Greece on the southeastern coast of the Adriatic Sea, embracing within that distance, the province of Dalmatia, as well as the other important territories. But, alas! what superiority of forces, and abundance of the sinews of war, could not do to crush the hopes and defeat the armies of gallant Hungary, treachery accomplished; and she sunk back into the grasp of her rival, to achieve, however, it is pleasant to believe, independence qualifiedly, in another way. In his message of the 28th of March, 1850, to the Senate, in answer to its call for copies of the correspondence with the agent, Mann, General Taylor expressed himself as follows:

"My purpose, as freely avowed in this correspondence, was to have acknowledged the independence of Hungary, had she succeeded in establishing a government *de facto* on a basis sufficiently permanent in its character to have justified me in doing so, according to the usages and settled principles of the Government; and although she is now fallen, and many of her gallant patriots are now in exile or in chains, I am free still to declare that had she been successful in such a government as we could have recognized, we should have been the first to welcome her into the family of nations."

Sir John Franklin.

At this period the whole civilized world was deeply interested in the all-too-probable fate of the great

explorer, Sir John Franklin, and his brave comrades in his two ships, the Erebus and Terror, with which he had been despatched by his Government to search for, and if possible make, the north-west passage around the American continent to the Asiatic shores of the Pacific; and, incidentally, to fathom the deep secrets that had hitherto been locked up in the icy chambers of the region around the North Pole. The expedition had sailed years before; but from the time it entered into the region of ice and night, nothing had been heard from it. What had become of it, and what was the fate of the commander and those who sailed under him, no one could tell. Although Sir John Franklin was well known as a sailor and captain of great knowledge and of prudent wisdom; and although his Government, — never niggard in supplies of every description for her explorers, or thoughtless of aught that could protect them from disaster, — had equipped and furnished his ships with ample stores for quite three years at least; yet when more than two years had elapsed without any intelligence of the expedition, not only his own Government and people became concerned for his safety, but other Governments and peoples also; because discoveries of all kinds, geographical, geological, or mechanical, become, sooner or later, the common property of all, in their influences upon the culture or the general interests of society. Wider than these effects that were in the possible future, was the universal throb of human hearts in sympathy for the suffering, whether in ships imprisoned by ice

in the dreary regions of perpetual cold, or at home, pining with but little hope of seeing their loved ones again. While human nature every where was thus responding to the appeals of distress, Lady Franklin, Sir John's wife, addressed the following eloquent letter to President Taylor, with explanatory notes appended to it:

BEDFORD PLACE, LONDON, *April 4th, 1849.*

SIR: — I address myself to you as the head of a great nation whose power to help me I cannot doubt, and in whose disposition to do so I have a confidence which, I trust, you will not deem presumptuous.

The cause of my husband, Sir John Franklin, is, probably, not unknown to you. It is intimately connected with the northern part of that continent of which the American Republic forms so vast and conspicuous a portion. When I visited the United States three years ago, amongst the many proofs I received of respect and courtesy, there was none that touched and even surprised me more than the appreciation, everywhere expressed to me, of his former services in geographical discovery, and the interest felt in the enterprise in which he was then known to be engaged.

The expedition fitted out by our Government for the discovery of the north-west passage (that question which, for three hundred years, has engaged the interest and baffled the energies of the man of science and the navigator) sailed under my husband's command in May, 1845. The two ships, "Erebus" and "Terror" contained one hundred and thirty-eight men (officers and crews), and were victualed for three years. They were not expected home unless success had early rewarded their

efforts, or some casualty hastened their return, before the close of 1847, nor were any tidings expected of them in the interval. But when the autumn of 1847 arrived without any intelligence of the ships, the attention of Her Majesty's Government was directed to the necessity of searching for and conveying relief to them, in case of their being imprisoned in ice, or wrecked, and in want of provisions and means of transport. For this purpose, an expedition, in three divisions, was fitted out in the early part of last year, directed to three different quarters simultaneously, viz.: 1st, to that by which, in case of success, the ships would come out of the sea to the westward, or Behring's Strait; 2d, to that by which they entered on their course of discovery on the eastern side, or Davis' Strait; and 3d, to an intervening portion of the Arctic shore, approachable by land from the Hudson's Bay settlements, on which, it was supposed, the crews, if obliged to abandon their ships, might be found. This last division of the expedition was placed under the command of my husband's faithful friend, the companion of his former travels, Dr. Sir John Richardson, who landed at New York in April of last year, and hastened to join his men and boats, which were already in advance towards the Arctic shore. Of this portion of the expedition I may, briefly, say, that the absence of any intelligence from Sir John Richardson, at this season, proves he has been unsuccessful in the object of his search.

The expedition, intended for Behring's Strait, has, hitherto, been a complete failure. It consisted of a single ship, the "Plover," which, owing to her setting off too late, and to her bad sailing properties, did not even approach her destination last year.

The remaining and most important part of the

searching expedition consists of two ships, under the command of Sir James Ross, which sailed, last May, for Davis' Straits, but did not succeed, owing to the state of the ice, in getting into Lancaster Sound, until the season for operations had nearly closed. These ships are now wintering in the ice, and a storeship is about to be despatched from hence with provisions and fuel to enable them to stay out another year; but one of these vessels is, in a great degree, withdrawn from active search by the necessity for watching at the entrance of Lancaster Sound for the arrival of intelligence and instructions from England by the whalers.

I have entered into these details with the view of proving that, though the British Government has not forgotten the duty it owes to the brave men whom it has sent upon a perilous service, and has spent a very large sum in providing the means for their rescue, yet that, owing to various causes, the means actually in operation for this purpose are quite inadequate to meet the extreme exigence of the case; for it must be remembered that the missing ships were victualed for three years only, and that nearly four years have now elapsed, so that the survivors of so many winters in the ice must be at the last extremity. And also, it must be borne in mind that the channels by which the ships may have attempted to force a passage to the westward, or which they may have been compelled by adverse circumstances to take, are very numerous and complicated, and that one or two ships cannot possibly, in the course of the next short summer, explore them all.

The Board of Admiralty, under a conviction of this fact, has been induced to offer a reward of £20,000

to any ship or ships, of any country, or to any exploring party whatever, which shall render efficient assistance to the missing ships, or their crews, or to any portion of them. This announcement, which, even if the sum had been doubled or trebled, would have met with public approbation, comes, however, too late for our whalers, which had, unfortunately, sailed before it was issued, and which, even if the news should overtake them, at the fishing grounds, are totally unfitted for any prolonged adventure, having only a few months' provisions on board, and no additional clothing. To the American whalers, both in the Atlantic and Pacific, I look with more hope, as competitors for the prize, being well aware of their numbers and strength, their thorough equipment, and the bold spirit of enterprise which animates their crews. But I venture to look even beyond these. I am not without hope that you will not deem it unworthy of a great and kindred nation to take up the cause of humanity which I plead, in a national spirit, and thus generously make it your own.

I must here, in gratitude, adduce the example of the Imperial Russian Government, which, as I am led to hope by His Excellency the Russian Ambassador, at London, who forwarded a memorial on the subject, will send out exploring parties this summer, from the Asiatic side of Behring's Strait northward, in search of the lost vessels. It would be a noble spectacle to the world, if three great nations, possessed of the widest empires on the face of the globe, were thus to unite their efforts in the truly Christian work of saving their perishing fellow-men from destruction.

It is not for me to suggest the mode in which such benevolent efforts might best be made. I will

only say, however, that if the conceptions of my own mind, to which I do not venture to give utterance, were realized, and that, in the noble conception which followed, American seamen had the good fortune to wrest from us the glory, as might be the case, of solving the problem of the unfound passage, or the still greater glory of saving our adventurous navigators from a lingering fate, which the mind sickens to dwell on, though I should, in either case, regret that it was not my own brave countrymen in those seas whose devotion was thus rewarded, yet I should rejoice that it was to *America* we owed our restored happiness, and should be forever bound to her by ties of affectionate gratitude.

I am not without some misgivings, while I thus address you. The intense anxiety of a wife and a daughter may have led me to press too earnestly on your notice the trial under which we are suffering (yet not we only, but hundreds of others), and to presume too much upon the sympathy which we are assured is felt beyond the limits of our own land. Yet if we deem this to be the case, you will still find, I am sure, even in the personal intensity of feeling, an excuse for the fearlessness with which I have thrown myself on your generosity, and will pardon the homage which I thus pay to your own high character, and to that of the people over whom you have the high distinction to preside.

I have the honor to be, sir, with great respect, your obedient servant,

JANE FRANKLIN.

To that letter the following answer was made by the Secretary of State:

DEPARTMENT OF STATE,
WASHINGTON, *April 25, 1849.*

MADAM:—Your letter to the President of the United States, dated April 4, 1849, has been received by him, and he has instructed me to make to you the following reply:

The appeal made in the letter with which you have honored him, is such as would enlist the sympathy of the rulers and the people of any portion of the civilized world.

To the citizens of the United States, who share so largely in the emotions which agitate the public mind of your own country, the name of Sir John Franklin has been endeared by his heroic virtues, and the sufferings and sacrifices which he has encountered for the benefit of mankind. The appeal of his wife and daughter in their distress has been borne across the waters, asking the assistance of a kindred people to save the brave men who embarked in the unfortunate expedition; and the people of the United States, who have watched with the deepest interest that hazardous enterprise, will now respond to that appeal, by the expression of their united wishes that every proper effort may be made by this Government for the rescue of your husband and his companions.

To accomplish the objects you have in view, the attention of American navigators, and especially of our whalers, will be immediately invoked. All the information in the possession of this Government, to enable them to aid in discovering the missing ships, relieving their crews, and restoring them to their families, shall be spread far and wide among our people; and all that the executive government of the United States, in the exercise of its constitutional powers, can

effect, to meet this requisition on American enterprise, skill, and bravery, will be promptly undertaken.

The hearts of the American people will be deeply touched by your eloquent address to their Chief Magistrate, and they will join with you in an earnest prayer to Him whose Spirit is on the waters, that your husband and his companions may yet be restored to their country and their friends.

I have the honor to be, very respectfully, madam, your obedient servant,

JOHN M. CLAYTON.

LADY JANE FRANKLIN.

Lady Franklin's reply is these words :

BEDFORD PLACE, LONDON, *May 24, 1849.*

SIR : — The letter with which you have kindly honored me, conveying the reply of the President of the United States to the appeal I ventured to address to him in behalf of the missing Arctic expedition under my husband's command, has filled my heart with gratitude, and excites the liveliest feelings of admiration in all who have had the opportunity of seeing it.

Relying upon the reports of the American papers just received, I learn that the people of the United States have responded, as you foresaw they would, to the appeal made to their humane and generous feelings, and that in a manner worthy of so great and powerful a nation — indeed, with a munificence which is almost without a parallel.

I will only add, that I fully and firmly rely upon the wisdom and efficiency of the measures taken by the American Government.

I beg you to do me the favor of conveying to the President the expression of my deep respect and gratitude, and I trust you will accept yourself my heartfelt acknowledgments for the exceedingly kind and feeling manner in which you have conveyed to me his Excellency's sentiments.

I have the honor to be, sir, your obliged friend and obedient servant,

JANE FRANKLIN.

The tone which pervades this correspondence, on the part of our officials, agrees well with the touching language and sentiment that inspired Lady Franklin. The page of history furnishes no brighter example of devoted wifehood than her unceasing efforts, never allowed to flag by despondency or resignation, to ascertain if her husband were yet alive, or, if dead, what record of his sufferings was left for her perusal. The action of General Taylor's Administration was but the expression of the feeling that warmed every American bosom; but who could have clothed them in such befitting garb as the Secretary of State?

THE CENTRAL AMERICAN QUESTION.

There was another subject which caused the Administration of General Taylor concern of a different character; this was the action of the English in or about what is known as Central America, — that is, the territory lying between Mexico and the then republic of New Grenada, at the Isthmus of Darien.

At the time of the acquisition of California by the treaty of Gaudalupe Hidalgo, above mentioned, the railroad system of this country was in its infancy. Less than fifteen years before, locomotive engines had not come into use, except on, it may be, a single road; and at the time of this treaty, the 30th of May, 1848, there was, perhaps, no line running west from the Mississippi, for a length of more than one hundred miles. A railroad to the Pacific ocean was not dreamed of by the most visionary — nothing being positively known of any part of the vast wilderness of plain and mountains west of the 100th meridian of longitude, except the scanty information supplied by the explorations of Lewis and Clarke. Fremont and his followers had not as yet penetrated its recesses, scaled its mountains, traversed their valleys. The country was virtually a blank. Of course the attention of the Administration was drawn earnestly to the fact that California, with the inexhaustible mineral wealth that had begun to be developed there, was in great need of the most jealous care. She might fall a prey to a greedy power before succor could reach her; she might also set up for herself, tempted by her vast internal resources, the unexampled flow of population into her bosom, the wonderful adaptation of her soil and climate for the richer and rarer productions of the temperate and torrid zones, the great facilities her situation offered her for traffic with the East, and the advantage with which she might, some day, annex, on the one hand, all the land of her former

ruler worth having, and on the other, that splendid region north of it, bounded, like herself, by the Pacific, and which had a mere joint occupancy, where each of the holders had little more than an asserted right. With what is now Oregon, added to her northwardly, and southwardly and eastwardly such of the Mexican provinces as were desirable, she would be a nation, not only respectable in size, but in wealth and power also. Now these and other considerations presented themselves, from time to time, and frequently, to General Taylor and his Administration; and it was thought of the utmost importance that nothing should be left undone to secure the United States against all risk of the loss of our Pacific possessions. The only open access to them was by way of Panama, up the Chagres river in flat-boats, and thence overland to the bay to the other side. All intercourse was by that route, which was through a foreign country, whose territory could not be entered with armed troops, without infringement of international law. Of course the way was open for all the world, around Cape Horn; but such a passage required months for its accomplishment, the distance for us being more than half way around the world. There was also the additional fact, which caused great anxiety, — the British, under one pretext or another, were obtaining a foothold in Central America, which was thought to endanger our transmontane possessions, by interfering with our interest to have an Isthmian route of transportation and travel

for our citizens, that would enure to them as a commercial people, and as a nation.

One of the first steps determined upon by the Taylor Administration was the dislodgement of the British from Central America. But this must be undertaken carefully; for Great Britain was then the first power in the world, strong in wealth and in preparation for war by land and sea, and strong also in her determination to yield nothing which it was her interest to retain. She had long had a sort of *de facto* occupancy, or title, to a petty district, on the north-eastern corner of Guatemala, called locally the Belize, but, by her, British Honduras. This was, originally, a simple right to cut logwood there, granted to certain of her subjects; but was made to serve another purpose (owing to the weakness of the chief authority), that of being treated as part and parcel of British territory. And it had so far been recognized as an accomplished fact that during a former Administration, a consul had been appointed for that place, and his *exequatur* had actually been asked of and given by the British Government. This British logwood right, and its subsequent enlargement, were long before the famous recommendation to Congress of Mr. Monroe, in 1823, called the *Monroe doctrine*. Among the first acts of the Secretary of State, was one to recall the consul from Belize. This cleared the way somewhat for the negotiation, afterwards had, resulting in the treaty of April 19, 1850, ratified the 4th of July of that year. But there was another claim maintained by the British in that region;

which was the so-called *protectorate* of the Mosquito Kingdom — a *habitat* of miserable savages, who, taking advantage of the weak condition of Nicaragua and the hope of help from the British, had conceived themselves to be the owners of the long reach of coast line, with quite a broad stretch inland, called the Mosquito coast, sometimes Mosquitia. This protectorate was a mere pretext for another foothold — the poor puppet of a king of those wretched Indians having none of the paraphernalia of state even, to say nothing of his utter want of troops or forces of any kind. As this protectorate was considered dangerous to our interests — the line of Mosquito coast covering most of the front of Nicaragua upon the Caribbean sea — it was determined that it should be put an end to. But how to go about this was the question.

In pondering over the subject, Mr. Clayton remembered that fifteen years before, during the Presidency of General Jackson, he had introduced into the Senate, at an executive session held the 3d of March, 1835, the following resolution: "*Resolved*, That the President of the United States be respectfully requested to consider the expediency of opening negotiations with the Governments of other nations, and particularly with the Governments of Central America and New Granada, for the purpose of effectually protecting, by suitable treaty stipulations with them, such individuals or companies as may undertake to open a communication between the Atlantic and Pacific oceans by the

construction of a ship canal across the isthmus which connects North and South America, and of securing forever, by such stipulations, the free and equal right to navigate such canal to all such nations, on the payment of such reasonable tolls as may be established to compensate the capitalists who may engage in such undertaking, and complete the work."

Here, then, was a basis upon which to rest his work of neutralizing the Isthmian territory. The necessity for action seemed to the Administration of Taylor to be imminent, if we intended to properly protect California, and make her safe and content in being part of the republic. It almost seemed like a special interposition of Providence, that the conception contained in the resolution should have arisen in the mind of the Secretary, so long before. With it at the bottom of his action, as a motive to be shown, but with an earnest desire, that would not be silenced, to deprive the British of their Central American claim, as well as to secure California, he invited the British minister, Sir Henry Lytton Bulwer, sent over for that purpose, to confer with him upon the subject of the inter-oceanic canal. The result of that conference — maintained for a long time, and often threatened with rupture from various causes, but never allowed to break, by reason of the determination of Clayton to accomplish his purpose in inviting it — was the convention known as the Clayton-Bulwer treaty — an achievement which was declared in my hearing in the Senate to be *the first universal fact in the his-*

tory of the human race. Why should such language have been used with respect to that instrument? Because, by it, Great Britain withdrew her claims to a territory which she had asserted and exercised the right to control; and that it stands upon the plane of nationality acting unselfishly. While no pretence of *territorial right* to the Mosquito coast had ever been claimed by her, she still, under an alleged arrangement with the miserable puppet treated by her as the king of that region, asserted the right, and was tenacious of it, to protect him in his assumed claims. The duty of protection of course required, if occasion arose, the right of occupation to perform it. It was Clayton's aim to take that away, and that of Sir Henry Bulwer to adhere to the compact with the so-called king. But the latter finally yielded, and affixed his name to the treaty, which was afterwards ratified by his Government, as it was by ours, the exchange of ratifications taking place on the 4th day of July, 1850. Its language, with respect to the subject in hand, is very remarkable for its fullness; and was thought, by the author of it, to put it beyond the power of human ingenuity to misconstrue it. But human ingenuity is an indeterminable factor in all transactions; misconstruction of the apparently definite language employed having been made afterwards, and, unfortunately for them, by distinguished Senators. But let us consider the treaty alone. We cannot do that without quoting its language. Here is the whole document, precisely as it passed from the hands of the negotiators:

Convention between the United States and Her Britannic Majesty.

The United States of America, and Her Britannic Majesty, being desirous of consolidating the relations of amity which so happily subsist between them, by setting forth and fixing in a convention their views and intentions with reference to any means of communication by ship canal which may be constructed between the Atlantic and Pacific Oceans, by way of the river San Juan de Nicaragua, and either or both of the lakes of Nicaragua, or Managua, to any port or place on the Pacific Ocean; the President of the United States has conferred full powers on John M. Clayton, Secretary of State of the United States; and Her Britannic Majesty on the Right Honorable Sir Henry Lytton Bulwer, a member of Her Majesty's Most Honorable Privy Council, Knight-Commander of the Most Honorable Order of the Bath, and Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty to the United States, for the aforesaid purpose: and the said Plenipotentiaries having exchanged their full powers, which were found to be in proper form, have agreed to the following articles:

Article I.

The Governments of the United States and Great Britain hereby declare that neither the one, nor the other, will ever obtain, or maintain, for itself, any exclusive control over the said ship canal; agreeing that neither will ever erect, or maintain, any fortifications commanding the same, or in the vicinity thereof, or occupy, or fortify, or colonize, or assume, or exercise, any dominion over Nicaragua, Costa Rica, the Mosquito

Coast, or any part of Central America; nor will either make use of any protection which either affords, or may afford, or any alliance which either has, or may have, to or with any State, or people, for the purpose of erecting or maintaining any such fortifications, or of occupying, fortifying, or colonizing Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, or of assuming or exercising any dominion over the same; nor will the United States, or Great Britain, take advantage of any intimacy, or use any alliance, connection, or influence, that either may possess, with any State or Government, through whose territory the said canal may pass, for the purpose of acquiring, or holding, directly or indirectly, for the citizens or subjects of the one, any rights or advantages in regard to commerce, or navigation, through the said canal, which shall not be offered, on the same terms, to the citizens or subjects of the other.

ARTICLE II.

Vessels of the United States or Great Britain, traversing the said canal, shall in case of war between the contracting parties, be exempted from blockade, detention, or capture, by either of the belligerents; and this provision shall extend to such a distance from the two ends of the said canal, as may hereafter be found expedient to establish.

ARTICLE III.

In order to secure the construction of the said canal, the contracting parties engage that if any such canal shall be undertaken upon fair and equitable terms, by any parties having the authority of the local Government or Governments through whose territory the same may pass, then the persons employed in making the

said canal, and their property, used or to be used for that object, shall be protected from the commencement of the said canal to its completion, by the Governments of the United States and Great Britain, from unjust detention, confiscation, seizure, or any violence whatever.

ARTICLE IV.

The contracting parties will use whatever influence they respectively exercise with any State, States, or Governments, possessing or claiming to possess any jurisdiction, or right, over the territory which the said canal shall traverse, or which shall be near the waters applicable thereto, in order to induce such States or Governments to facilitate the construction of the said canal by every means in their power; and furthermore, the United States and Great Britain agree to use their good offices, whenever or however it may be most expedient, in order to procure the establishment of two free ports, one at each end of the said canal.

ARTICLE V.

The contracting parties further engage that when the said canal shall have been completed, they will protect it from interruption, seizure, or unjust confiscation, and that they will guarantee the neutrality thereof, so that the said canal may be forever open and free, and the capital invested therein, secure. Nevertheless, the Governments of the United States and Great Britain, in according their protection to the construction of the said canal, and guaranteeing its neutrality and security when completed, always understand that this protection and guarantee are granted conditionally, and may be withdrawn by both Governments, or either

Government, if both Governments or either Government shall deem that the persons or company undertaking or managing the same adopt or establish such regulations concerning the traffic thereupon, as are contrary to the spirit and intention of this convention, either by making unfair discriminations in favor of the commerce of one of the contracting parties, over the commerce of the other, or of imposing oppressive exactions, or unreasonable tolls, upon passengers, vessels, merchandise, or other articles. Neither party, however, shall withdraw the aforesaid protection and guarantee without first giving six months' notice to the other.

ARTICLE VI.

The contracting parties in this convention engage to invite every State, with which both or either have friendly intercourse, to enter into stipulations with them similar to those which they have entered into with each other, to the end that all other States may share in the honor and advantage of having contributed to a work of such general interest and importance as the canal herein contemplated. And the contracting parties likewise agree that each shall enter into treaty stipulations with such of the Central American States as they may deem advisable, for the purpose of more effectually carrying out the great design of this convention, namely, that of constructing and maintaining the said canal as a ship communication between the two oceans, for the benefit of mankind, on equal terms to all, and of protecting the same; and they also agree that the good offices of either shall be employed, when requested by the other, in aiding and assisting such treaty stipulations; and should any differences arise, as to right, or property, over the territory through which

the said canal shall pass — between the States or Governments of Central America — and such differences should, in any way, impede or obstruct the execution of the said canal, the Governments of the United States and Great Britain will use their good offices to settle such differences in the manner best suited to promote the interests of the said canal, and to strengthen the bonds of friendship and alliance which exist between the two contracting parties.

ARTICLE VII.

It being desirable that no time should be unnecessarily lost in commencing and constructing the said canal, the Governments of the United States and Great Britain determine to give their support and encouragement to such persons or company as may first offer to commence the same, with the necessary capital, the consent of the local authorities, and on such principles as accord with the spirit and intention of this convention; and if any persons or company should already have, with any State through which the proposed ship canal may pass, a contract for the construction of such a canal as that specified in this convention, to the stipulation of which contract neither of the contracting parties in this convention have any just cause to object, and the said person or company shall, moreover, have made preparations, and expended time, money, and trouble, on the faith of such contract, it is hereby agreed that such persons or company shall have a priority of claim over every other person, persons, or company, to the protection of the Governments of the United States, and Great Britain, and be allowed a year from the date of the exchange of the ratifications of this convention for concluding

their arrangements, and presenting evidence of sufficient capital subscribed to accomplish the contemplated undertaking; it being understood that if, at the expiration of the aforesaid period, such persons or company be not able to commence and carry out the enterprise, then the Governments of the United States and Great Britain shall be free to afford their protection to any other persons or company, that shall be prepared to commence and proceed with the construction of the canal in question.

ARTICLE VIII.

The Governments of the United States and Great Britain having not only desired, in entering into this convention, to accomplish a particular object, but also to establish a general principle, they hereby agree to extend their protection, by treaty stipulations, to any other practicable communications, whether by canal or railway, across the isthmus which connects North and South America, and especially to the inter-oceanic communications, should the same prove to be practicable, whether by canal or railway, which are now proposed to be established by the way of Tehuantepec or Panama. In granting, however, their joint protections to any such canals or railways as are by this article specified, it is always understood by the United States and Great Britain, that the parties constructing or owning the same shall impose no other charge or conditions of traffic thereupon, than the aforesaid Governments shall approve of as just and equitable; and that the same canals or railways, being open to the citizens and subjects of the United States and Great Britain on equal terms, shall also be open on like terms to the citizens and subjects of every other State

which is willing to grant thereto such protection as the United States and Great Britain engage to afford.

ARTICLE IX.

The ratifications of this convention shall be exchanged at Washington, within six months from this day, or sooner if possible.

In faith, thereof, we the respective plenipotentiaries, have signed this convention, and have hereunto affixed our seals.

Done at Washington, the nineteenth day of April, Anno Domini, one thousand eight hundred and fifty.

(Signed) JOHN M. CLAYTON, [L. S.]
HENRY LYTTON BULWER, [L. S.]

It was well said by the late William H. Seward, in his remarks in the Senate before referred to, on the occasion of the ceremonies at the announcement of Mr. Clayton's decease, that the treaty was "*the first universal fact in the history of the human race.*" When before, had any public act been done, the design of which was to benefit not only those whose agents performed it, but the whole family of nations as well? Our relations with our younger sisters of Central America, and the Isthmus, were more than friendly; there was a similarity of government between them and us growing out of the revolt of each against trans-Atlantic rule; and the future success of all in the experiment of self-government was linked, no one could tell how completely, with that of each. There could, therefore, be no doubt that whatever *we* desired, how exclusive

soever the benefit might be, would be freely granted by *them* — sentiment and interest both agreeing. But no separate treaty, with respect to inter-oceanic communication for separate ends or objects alone, had ever been made with any of them — all Administrations refraining from using our influence, as a great and constantly growing power, for that purpose. Whatever may be said of the neglect of previous Governments here to make a show of responding to the spirit and recognizing the policy of the Monroe recommendation, it cannot be charged that any Administration had sought to use our importance with our feeble co-republics, for gains of our own merely. It is not the genius of the people of the United States to acquire, unfairly, any right or advantage. At the same time they are watchful of their interests. It was in a spirit of unselfishness that the mere provisions about the canal were made; but at the same time the advice, "*carpe diem*," was not lost sight of. The opportunity offered was a good one to secure ourselves against all trouble hereafter from the British in Central America. How it was availed of, the language of the Clayton-Bulwer Treaty best explains. It might have been supposed that this treaty would have been considered, at least by our own people, as a signal example of diplomatic skill, entitling the Administration of General Taylor to unqualified praise, for, to observe it, not only required of Great Britain the abandonment of all claim to a foothold in Central America, including the Mosquito Coast, for any purpose whatever, but it engaged her

powerful services (which no spirit of disparagement can undervalue) for the protection by herself, in co-operation with the United States, of any canal, or railway, that might be made to connect the oceans, or establish transit from the one to the other; and also required, and bound, the contracting parties, by an engagement, to invite *all other States with whom both or either had friendly intercourse*, to enter into like stipulations with them — to the end that such States might share in the honor and advantage of having contributed to so great an enterprise. This was not the case, however. A sort of fatuity seems, at a subsequent date, to have possessed some of the great men in public life, as was shown by the result of a debate upon the treaty during the Administration of Mr. Pierce.

Death of General Taylor and Retirement of Mr. Clayton.

On the 9th of July, 1850, General Taylor unexpectedly died, and Mr. Clayton thus obtained the release from public cares which he had sought almost from the first of his taking office in the Administration. Nothing but his strong personal attachment to the President, and determination that the latter should not be disappointed of the aid at his hands, upon which he so much relied, induced him to remain at Washington so long as he did. If he had died when

the President did, his name would have gone down to posterity as one of the brightest that had adorned the national page; but he was destined, at a later day, to figure again in public life, as will hereafter be shown, and to add to his renown, as an orator and debater in Congress.

Nor was the life of John M. Clayton, after the decease of General Taylor, and, before his return to the Senate in 1853, undistinguished by any public act or expression. On the 14th of October next after his return to his home, a meeting of his political friends was held in Wilmington, for the purpose of honoring him with a public dinner. It was presided over by the venerable John Connell, and a committee of invitation was appointed, of which his friend, the Hon, John Wales, was chairman. In response to their complimentary letter, his reply of acceptance contained, among other things, the following language:

"My object in waiting upon you will be to offer my thanks to my fellow-citizens of this, the State of my nativity, for all the confidence and kindness they have so uniformly extended to me through a long public life. At different periods I have held most of the public places of trust and honor within their gift: and now I shall be most happy to evince my gratitude, not in thanks for future favors, but for those which, by their partiality and friendship, have been profusely bestowed upon me. The very flattering terms in which you have spoken of my public services, are greatly appreciated, and I desire now to express my

acknowledgments to those who have deputed you to honor me with such an invitation, and to you, gentlemen, for whom individually I have long cherished sentiments of the highest personal regard."

The company was presided over by the late Charles I. DuPont — a very devoted friend of the guest — and in answer to a complimentary toast, prefaced by a speech from the President, Mr. Clayton made an address characterized by all his eloquence, and a more than common share of the cogency and earnestness that marked his public utterances. It was the first opportunity that presented itself for an exposition of the policy of the Administration, and its vindication from the assaults which had been unceasingly made upon it; and he took the fullest advantage of it. Look where you will, you will find nothing superior to the complete defense he made of the Administration of General Taylor, claiming for himself nothing — though he might have aspired to much — and uttering the finest sentiments of patriotism. Referring to President Fillmore, he said he had no doubt that he would do his whole duty; and hoped that they would be willing to join with him, in sustaining him in the discharge of that duty. He added:

"In his patriotism, and that of the members of his cabinet, I have the utmost confidence. I have no reason to believe that either of them would have refused his aid at any moment to the settlement of these vexed questions (those he had been speaking about)

on the basis proposed by President Taylor. They have acquiesced in what appeared to them to be the only practicable scheme of adjusting those difficulties. They seek to sustain the Constitution and the laws of their country, and I honor them for their purpose. While they stand by the Union, I shall be with them and for them. If there be any one sentiment in my bosom more deeply seated and more deeply cherished than all others, it is that of love and veneration for the institutions which our fathers have left us; and for the country, the whole country, covered and protected by the American Constitution. There will be no help for me or mine when this Union shall be broken up; and should that melancholy period ever arrive, I shall be a wanderer without a home. I can take no part for one section against the other; to me the preservation of this Union is a matter of interest above all others; and, if necessary, I shall be true to those who sustain it, to the last of my blood and my breath."

Commodore Jones.

No man had a greater admiration for deeds of heroism, in the field or upon the deck, than John M. Clayton. With the history of every great captain, of whatever age, or race, he was perfectly familiar, so far as research or personal inquiry could give him knowledge. Where the records of the past furnished the information, he searched them; where tradition and his own inquiries could alone serve him, he possessed himself of all they could afford. The enthusiasm of his

regard for distinguished heroes tended to imbed more deeply in his tenacious memory, all that he could learn of them. Growing up at a time when there were many survivors of that gallant band, the Delaware Regiment, whose deeds of valor occupy so broad a page of the record of the nation's heroic strife for liberty, and attaining his manhood and part of the distinction which awaited him in early life, while the brave sailors, Jones and McDonough, were yet upon the stage of existence, he gathered from them all, an immense mass of fact concerning the wars, and their own personal experience in them, which not only gratified himself, but enabled him to afford pleasure to others in the recital of them. A *raconteur*, as the French call it, he was, in the highest sense of that term — a relater of facts and anecdotes of personal history, whose equal is rarely found. As I have said, in treating of Mr. Clayton personally, he never forgot anything worthy of being remembered; and whatever concerned the importance of the State — whether with respect of her relation to her sisters, as an equal in sovereignty, or the high deeds of her public men — was as familiar to him as if he had but just read it out of a book. Hero worship, of a noble kind, was a feature of his character. By the hour, over and over again, many of us have listened to such recitals, the interest of which never flagged for a moment; nor did it appear that the store could be exhausted. Dates were to him matter of great importance, and seldom if ever were forgotten. When a fact was stated, involving action,

the very day would be given, and when it added value to the circumstance itself, he had learned the hour of its performance.

It was these well known qualities, which, added to a long subsisting personal friendship and admiration for his high courage and great simplicity of life, that prompted the invitation that Mr. Clayton received, to deliver a memoir and eulogy upon Commodore Jacob Jones. It seems that during the latter part of his life, the old hero expressed a desire, that when he died, his bones might be laid in his native soil of Delaware. This being known to the people of this city, many of them applied to the family of the Commodore, as soon as they received intelligence of his death, for the removal of the remains to Delaware; which request being granted, they were brought here on the 25th of October, 1850, and now repose in the cemetery of Wilmington, a lot in which, for the purpose of their interment, had been generously given by the Wilmington and Brandywine Cemetery Company. It being thought fit that the occasion should be marked by some public expression worthy of the dead, and of the people who honored him, Mr. Clayton was invited to deliver an address upon his life and services, which, as an admirer and long-time personal friend, he was considered peculiarly qualified to do. No connected biography of Commodore Jones had ever been published, nor was much of his personal history known, except to a few close personal friends. On the 17th of the following December,

that duty was performed, in the saloon of the Odd Fellows' Hall in Wilmington, before a large assemblage of citizens of the State, and at its close, the late Hon. Willard Hall was called to the chair for the purpose of giving expression, by the meeting, of their thanks for the address. A resolution "that the thanks of this community be presented to the Hon. John M. Clayton, for the eloquent and appropriate address delivered this evening, on the life, character, and public services of Commodore Jacob Jones," was passed, and another that "Mr. Clayton be particularly requested to furnish a copy of the address for publication," — which request was complied with. This address is commended to the perusal of all for its minute relation of facts in the life of the subject of it, the fine display of his valorous services for the country, and the strong and graphic language in which every event treated of is related. Would that others of our distinguished dead had so capable and enthusiastic a historian!

State Convention.

At the session of the General Assembly of this State, commenced and held in the month of January 1851, an act was passed to call a convention of the people to revise the Constitution of 1831. There had been no steps taken, as provided for in that instrument, warranting the passage of any such law; but, nevertheless, a statute was passed on the 26th of Feb-

ruary, 1851, to take the sense of the people upon the question of a convention, at an election to be held on the first Tuesday in November then next following, those favoring a convention to vote "*for a convention,*" and those not favoring to vote "*against a convention.*" Other provisions were made in the same bill for holding the convention.

There are some words in our language, a skilful use of which always leads the public mind captive, — for a time at least. One of these is the word *reform.* There are but few men who are altogether content with what is around them; and they are never active citizens, and but rarely men of decided party attachments. But all the busy-bodies; the malcontents; the discontents; the disappointed aspirants for office; the would-be leaders of the people; the young men who are ready for anything, if they have no well-grounded moral principle; and that large class, whose misfortunes or follies have shipwrecked their fortunes, and who look forward only for *something which may turn up,* are sure to be for *reform.* The term sounds well; it played a successful part in 1831, *convention and reform* being then the catchwords, and it was not doubted that the phrase would be equally potent twenty years afterwards; and so in fact it was. A majority was *for a convention,* and the Legislature, on the 4th day of the following February, passed an act for holding it on the first Tuesday of December, then next, and for the election of delegates thereto at an election to be held on the preceding second Tuesday

of November. The mere politicians of the Whig party gave way to their fears that their opponents would reap rewards from the movement, and took part, in one way or another, in it, else it could have had no real strength. This is one of the fatal mistakes which manœuverers always make. As the call for the convention was deemed to be, in reality, a revolutionary act, under the disguise of law — the requirements of the Constitution for calling a convention not having been observed — Mr. Clayton resolved to defeat the object of the movers in the scheme, if possible. The Whig party had not yet been swallowed up by what was called the *American* movement; but had still much of that rare vitality which enabled it, so long, with a meagre majority of two or three hundred in the State, to resist the assaults of its watchful and astute adversary. It had been defeated, it is true, in the gubernatorial contest of 1850; but it still retained the Legislature and a majority of the popular vote, as appeared by other evidences. Such being the case, a convention, of one hundred delegates from each county, was called, to meet at Dover on the 8th of June, 1852, really to take action in regard to the convention, but apparently for other purposes also. It was composed of the best men of a party which (now that it is buried with the past of other political organizations) it can offend no one to speak of, at this day, or on this occasion, as a party that felt always the responsibility upon itself of selecting suitable men for important places. Before the convention adjourned,

it adopted and spread before the people an address, as an opposition to the legality of the proposed convention, which, for force and clearness of argument, vigor of expression, lucidity of language, and careful view of all the questions urged by the friends of the measure, and the refutation of them, is worthy of the highest praise. Mr. Clayton prepared it, and it answered the purpose — not to prevent the holding of the convention; things had gone too far for that — but to defeat its offspring, when submitted for approval by the people. It was rejected so decidedly, although a few able men helped to construct it, that the subject has never been seriously agitated since. By the time the ratification election came around, the conservative mind of our people had gained time for reflection; and they wisely determined "rather to bear the ills they *had* than fly to others that they knew not of."

Re-election to the Senate — Clayton-Bulwer Treaty.

The general election of 1852 resulted in giving to the Whigs a majority in the House of Representatives of this State; but the Democrats had the Senate. This condition of things was brought about through a breach in the ranks of the Whig party, caused by the secession, in 1850, of gentlemen who honestly thought thus to advance the cause of tem-

perance reform, though the Whig party might be defeated by their course. The great end of temperance legislation was thought to outweigh political considerations.

As the term in the United States Senate would expire on the 3d of March, 1853, it was said on all sides that the State would go unrepresented by *one* Senator in the 32d Congress; because the Democrats of the State Senate would not go into joint meeting, as the Whigs would have a majority when the two Houses were together. Mr. Clayton was in quiet retirement at Buena Vista, taking no active part in political affairs, and not desiring again to enter public life. He would have felt justified in his state of inaction, but for an event that roused him from his repose, and sent a thrill of excitement throughout the whole country. It was this:

On the 6th of January, 1853, General Cass introduced into the Senate, the subject of the Central American Treaty, heretofore spoken of, — commonly called the Clayton-Bulwer Treaty. This he did by way of what is called a personal explanation; and in making it, charged the late Secretary (Clayton) with having recognized the British title to Belize or British Honduras — and also, indirectly, with falsehood, in stating in his letter to Sir Henry L. Bulwer, of the 4th of July, 1850 (the day of exchange of ratification of the treaty), that the chairman of the Committee of Foreign Relations of the Senate, William R. King, of Alabama, perfectly understood that Belize

was not included in the treaty. Here was a charge of two things: the compromise of his Government, by the Secretary, and a false representation, as excuse for it. If there was anything that especially characterized Mr. Clayton, it was his complete understanding of every subject he undertook to deal with; and no man, also, was more sensitive when falsehood, in whatever form, was charged upon him. The imputation of false statement to the British diplomatist produced upon him the effect the direct charge by Lord Marmion wrought upon the old Douglas, "it shook his very frame for ire." His wrath was great, but what could he do? Answer the charges in the newspapers he promptly did; showing the facts and fortifying himself, in support of them, by testimony of others, including a letter from Col. King. All this was seen by the Michigan Senator, but he reiterated his charges, and as he was known to be a gentleman of vast information and influence, and had, but four years previously, been honored by his party with a nomination for the Presidency, the attention of the whole country was attracted to the controversy between these men — unequal, however, in one sense, that the *assailant* stood on the high plane of his Senatorial position — "the observed of all observers," while the *assailed* was withdrawn from conspicuity, by the obscurity of private life in the country. The newspaper press of General Cass's party, of course, made the most of the charges, and rung their changes from one end of the country to the other. The opportunity to crush the Whigs by show-

ing that their Secretary of State had, through ignorance, or worse, given away the interests of his country, and then basely tried to shield himself from the indignation such conduct deserved, was not to be neglected. What little of vitality there remained in a decaying organization that had proved to be, in its palmy days, and under the leadership as well of Clayton as of Clay, so sharp a thorn in the side of its great rival, was to be crushed out. The spur of destruction of a foe, was the prick to the sides of party intent: and it was used unsparingly. While the assault was commenced by General Cass — a very chivalric, though not always (as was proved in this case) safe leader — yet there were others prepared to follow and support him, as the sequel showed.

The people of this State were, of course, especially concerned about the charges of General Cass; but what could be done to place the antagonists upon the same footing? With the Legislature composed as it was — the Senate Democratic, the House Whig, — it was not supposed that a joint session could be secured, and Clayton sent back to his seat in the Senate. Men looked on, in grief and despair. The case seemed hopeless; an innocent man was to be ruined forever, in the estimation of his fellow-citizens, and there seemed no help for it. Such was the intensity of party feeling among us, that the Whigs had no hope that their idol could be sent back to meet his foes upon a common arena. They had seen, from the publication that Clayton had made, immediately

upon the opening of the charge by General Cass, that if an opportunity were given him to meet his accuser face to face, a complete defence and refutation would be made. But there was the obstacle of a hostile Senate — that could not be overcome!

Fortunately for the reputation of Mr. Clayton, and what is much more, that of his State — whose pride and honor, both friend and foe had felt, were safe in his keeping, but which would greatly suffer by the imputation cast upon him — party politics, though characterized in Delaware by the same zeal and fervor that prevailed elsewhere, had not yet made enemies of men, personally. Some of the strongest partisans in this State, of opposite politics, were warm personal friends; and it was the boast of our people, that none of the acrimony of party was ever, except upon the rarest occasions, at the polls, allowed to transfuse itself into, and transform the affections into hostilities. When the battle was over, all were friends. Besides, the people of our little commonwealth, with the Anglo-Saxon blood flowing in their veins, were lovers of fair play, and had ever, in their private and public life, accorded to a person accused the benefit of the legal presumption of innocence, till it was overcome by proof of guilt. These noble feelings, added to an admiration all felt for the talents and virtues of Mr. Clayton, stirred the Democratic heart; and, to their great honor, they consented to a joint meeting of the Legislature, so that Clayton should go back to Washington and meet his assailants at the bar of public

judgment. This determination on the part of the Democrats was greeted, everywhere, as an act of high patriotic conduct, as it deserved to be.

Mr. Clayton felt deeply grateful for his election, which took place on the 12th day of January, and came to Dover as soon as it was announced to him; and at the earliest period that preparation could be made for that purpose, entertained at dinner, at the chief hotel in Dover, the General Assembly, the State officers, and the principal men of both parties, all over the State, particularly selecting the leading Democrats, to whose party he felt so grateful for its magnanimity. The event was one never to be forgotten by those who were present. The best of feeling prevailed throughout; and the speech delivered by himself, when called out, was a calm, convincing statement of the propriety of his course in the treaty negotiation, and satisfied everybody that when he could obtain a hearing in the Senate, his vindication would be complete. He greatly pleased his political adversaries by the manly sentiments expressed throughout his remarks in regard to the relations of a personal kind, which should never be disturbed by the strife of party. Many who were present responded afterwards in a like spirit; and the occasion has ever since been regarded, by those who participated in it, as one of the most agreeable events of our party life in Delaware. Here and there, among a few men, the feeling so universal at that period, shows itself now-a-days; but the rule

is, either active personal enmity, or a smothered rancor, all the more bitter because concealed.

Eager to vindicate the Administration of General Taylor, on account of the treaty, and himself as our negotiator of it, and reassure the country, he lost no time in repairing to his post of duty; there was also the additional motive of shielding the State he loved from the dishonor and loss of prestige that would befall her, by the disclosure that one of her sons had proved faithless to, or ignorant of, the business he had undertaken to do. To those who knew Mr. Clayton's sensitive nature, it need not be said that he suffered intensely from the reflections that crowded upon his mind at this time, — and that he chafed at the time which must elapse, before the opportunity could be given him for his vindication. There was another sting added to these — that he should seem to have been "*outwitted*" by Sir Henry Bulwer. (Sir Henry had been trained in the school of diplomacy — a science requiring great natural acuteness of intellect, as well as intimate knowledge of international law, diplomatic history, and all the delicate and subtle arts — I will not say, of *finesse* — that qualify men for intercourse and negotiation as representatives of their Governments.) It galled him, that he, who as, he believed, had sounded the "depths and shoals" of all that his place required of him, should be thought to have given up anything he ought to have insisted upon, in making that treaty — should have recognized the title in the British to any part of Central America, which it was the inter-

est of this country he should not do. There was the further feeling, that his personal reputation would suffer with his friends, if it should appear to them that he was not equal to any task he saw fit to undertake. As I have said, he was deeply touched, that his political foes had given him the chance to explain and defend; and he gratefully remembered it as long as he lived.

On the 8th of March following his election to the Senate, Mr. Clayton entered upon his answer to the speech of General Cass — opening his address with this language:

"In rising, for the first time, after a long absence, to address the Senate, I labor under some embarrassment from observing that gentlemen around me are generally strangers to me, and that not a single individual of my ancient associates, who served with me in this body twenty-four years ago, is now present. I am irresistibly led back to the events of a period over which nearly a quarter of a century has spread its mantle, when those who filled this chamber, as the representatives of the sovereign States of this Union, mingled in discussion on the great issues then before the country, and when the walls of this chamber daily rang with the echoes of their voices, as they poured forth 'the logic, and the wisdom, and the wit,' for which they were so pre-eminently distinguished. Their debates were but justly compared to the procession of a Roman triumph, moving in dignity and order to the lofty music of its march, and glittering all over with the spoils of the civilized world. The last of them who

left this scene of their strifes and contentions, was the present Vice President of the United States, the Hon. William R. King, who presided over the deliberations of the Senate nearly twenty years, with unsurpassed ability and impartiality, and who, during a long period, occupied the post of chief distinction here, as the chairman of the Committee of Foreign Relations:

> 'Statesman, yet friend to truth, of soul sincere,
> In action faithful, and in honor clear.'

"I confess also, a feeling of embarrassment from another source. I am called upon to vindicate myself against charges of the grossest character, preferred against me here, during my absence. It is the first time in the course of a long life that I have found it necessary to defend myself against degrading imputations before any public tribunal. The calumnies which have been uttered here, were all made in connection with the treaty of the 19th of April, 1850; and I intend, if health and strength permit, to vindicate the course which I adopted while acting as Secretary of State under the lamented Taylor, in regard to the negotiation of that treaty. It is a duty incumbent on me to speak; not, however, merely for my own vindication, but to enable others now in the Administration of the Government to understand a subject upon which truth has been more perverted, and falsehood more industriously propagated, than on any other topic of the day. In discharging this duty, I shall endeavor to speak of others with all possible respect, consistently with what I owe to truth, to the country, and to myself. All who recollect my course of conduct when I occupied a seat in this chamber, will bear me witness that I never assailed any man per-

sonally in debate — never was engaged in any controversy, personal in its character, with any one, unless it was previously provoked by him, *odi accipitrem.* But now, let it be well understood by all here, that for every word I utter in debate, I hold myself personally responsible everywhere as a gentleman and a man of honor. I have very great contempt for that class of puppies whose courage is evinced by their silence when they are hung up by the ear. When attacked, I will defend myself, without the slightest regard to consequences; and in doing that, as I am liable to the infirmities of other men, I will carry the war into Africa whenever I think the assailant worthy of my notice. On this occasion much of what I had intended to say must be omitted, in consequence of the absence of the distinguished Senator from Michigan (Mr. Cass), who introduced the discussion in this chamber on Thursday, the 6th of January last. I regret his absence, and the cause of it. I cannot say those things which I had intended to say to him, if he were here, for I do not much approve of the modern plan of attacking absent men, who can have no opportunity of defending themselves on the spot. However, in speaking of the subject referred to in that debate, in which that Senator was my principal accuser during my absence, I must necessarily speak of him, because my own defence, for which I have demanded liberty of speech at the the first moment after the Senate could probably hear me, would otherwise be unintelligible. And I will say further, that I am willing to remain here till harvest, if necessary, in order that all others who may choose to reply to anything I shall say, may have full and ample opportunity of doing so."

Then followed a vindication of the Administration from the charges made against it, which enchained the attention of the Senate, and opened the eyes of the whole country also to the true facts which governed the negotiation of the treaty, as well as to the success of our diplomacy in securing the Central American territory, in all time, from colonization by the British, and from occupation, or fortification, for any purpose. We became equally bound, of course; but we had no foothold, or protectorate, there, as Great Britain had claimed to have, and besides, it was not our interest as a nation to own any territory in that quarter, separated by more than the width of the Gulf of Mexico from any of our possessions. What we desired, and what our interest required, was that the Central American States, having free government like our own, should preserve their autonomy, and that England should not possess, there, any power whatever. This was secured by the treaty — with the additional engagement to protect any persons, or company, who might undertake the business of digging a canal, or making a railroad, across any part of their territory. And there was secured also this further important stipulation — that each should endeavor to induce other nations to enter into like conventions.

It is entirely unnecessary to give the speech of Mr. Clayton, or those of the Senators, supporting General Cass, who replied to it, as they are printed at large in the *Congressional Globe*. Those Senators were Messrs. Mason, of Virginia, and Douglas, of Illinois —

both able men, the former of long experience in diplomatic affairs as a member of the Foreign Relations Committee, and the latter one of the most talented debaters that ever held a seat in the Senate. The speech to which they replied had been delivered by Clayton without any interruption, except a single explanation by Mr. Douglas, and was a calm, clear, exhaustive examination of the whole question from the beginning, and with an argument pervading it calculated to convince all rational minds that the interests and welfare of the country had been safe in the Secretary's hands. But either from being unable to view the matter in the light Clayton did, or failing to understand the true merits of the case and the difficulties that beset any attempt to make a treaty of *extrusion*, or possibly from a desire to belittle the services of the Secretary, and at the same time to create a subject for party service, those gentlemen brought to their aid, in their respective replies, an immense amount of ardor, and (what seemed to Clayton) not only uncandor, but fierce spirit of condemnation Leaders of sentiments, as those gentlemen undoubtedly were — the one of the strong anti-British feeling of the South, and the other of the rampant doctrines of *young America*, — their speeches attracted a great deal of attention. In the general ignorance of the whole subject which prevailed, men were more than usually inclined to rely upon the words of their party chiefs; and, as the Democratic party was in majority at that time, the treaty was in great danger of being

repudiated, so far as it could be, by the popular voice. The whole subject required too much reading to be fully understood; and the masses scarcely read anything but party speeches and newspapers. Mason and Douglas had an advantage over Clayton, in adopting what is always, at first, the popular side — that which seems to stand best by the country. But when he came to reply to them on the 14th of March, he knew exactly what he had to meet, and went at his work, as he always did at any that interested him, with all the power that was in him. And, if he had lacked anything to thoroughly rouse him, it was the constant interruptions made by his antagonists. To use a very expressive, strong phrase of the present day — he "made it very hot" for them in many ways; and when he closed his speech, there was but one sentiment on the part of those who heard it — that it not only completely vindicated the treaty itself (as in fact the first speech had done), but overthrew all the reasons urged against it, as well as those who brought them forward; and such was the judgment of the country also, when the debate was published. The subject then passed from the consideration of the Senate, and was not taken up again until the December following.

On the 12th of December, 1853, the Senate passed a joint resolution calling upon the President for the correspondence, between our own and the British Government, on subjects growing out of the treaty of the 19th of April, 1850, since the mes-

sage of the President of the 30th of December, 1852; and on the 5th of the following month General Cass had moved to refer to the Committee of Foreign Relations the answer made to the Senate by the President on the 3d, communicating the information called for. To understand the matter, it is necessary to say that though the treaty was duly ratified by the British Government, yet it soon became apparent that the English felt that their interests had been seriously affected, without any compensating equivalent, or even benefit. While such rights as they held in British Honduras were not impugned by the treaty, yet they were not recognized directly or indirectly — as was consistent with Clayton's course in recalling the consul sent to the Belize. The truth is, the treaty had nothing to do with British Honduras, because it had never formed any part of Central America, politically considered, but had been part of Yucatan, a possession of Mexico. But this was not the trouble. The real difficulty was, that the protectorate of the Mosquito kingdom, which was a part of Central America (being within the limits of Nicaragua) would cease to be of any advantage to Great Britain, as neither of the parties could "occupy, or fortify, or colonize, or assume or exercise any dominion over Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America," nor could either use any protection that either afforded, or might afford, or any alliance that either had or might have to or with any State or people, "for the purpose of

erecting or maintaining any such fortifications, or of occupying or colonizing Nicaragua, Costa Rica, the Mosquito Coast, or any part of Central America, or of assuming or exercising any dominion over the same." The scope of this language was not appreciated by the British Government at the time it gave its assent to the ratification.

England found herself, as we may suppose, the loser by the treaty, unless she could impress her construction of it upon the judgment of other peoples. A first step towards that end was to act, in all respects, about Central American affairs, as she had done before, and to cling to her hold there by continuing to occupy San Juan de Nicaragua — or Greytown, as she chose to call it, the more to emphasize her ownership or control of it. Now this port was exactly at the proposed eastern terminus of the ship canal most favored by the United States. Additionally, she discovered that while any protectorate she might have over the wretched Indian tribe claiming to hold the Mosquito Coast (she claimed that she had exercised the office of protector there for two centuries), was not, in terms, taken away from her by the treaty, yet that it was deprived of all value to her, and "a barren sceptre in her gripe." Something must be done, however; it must be made appear that the American interpretation of the treaty was wrong, and her own right. This was attempted in a variety of ways — by speeches, correspondence, and otherwise.

The debate which arose out of the subjects of in-

formation, communicated by the President's message (which it is unnecessary to recite here, as they are accessible to all, in the published proceedings of the Senate), develop the fact that the treaty had not only been entirely misunderstood by its assailants, at the session of 1853, but that it was, in truth, a most extraordinary achievement by our negotiator. General Cass, who had, as before related, made the attack upon it which caused his friends in Delaware to throw off party to give their fellow-citizen a chance to reply to it, in the course of a speech, delivered by him on the 11th of January, 1856, used this language: —"Nor do I see, in any view, what we can gain by a new treaty (the British had proposed one). The first is well enough, if carried out in its true spirit; and another would be no better if exposed to the same process of construction, or rather misconstruction. What Lord Clarendon expects from a new treaty, or what either party is to demand, or concede, I am at a loss to conjecture. What we want, and all we want, is that the Central American States should be let alone to manage their own affairs, in their own way, leaving to the civilized Governments, within whose territories they live, to regulate the Mosquito Indians as they may think proper, agreeably to a principle everywhere recognized and adopted since the discovery of this continent. And all this is precisely what the Clayton-Bulwer Treaty would effect, if fairly interpreted and fairly executed; and an honest compliance with its stipulation presents, in my opinion, the only scheme of

adjustment (in which we can have any agency) by which the affairs of Central America — Mosquito included — can be satisfactorily and permanently settled. And I think we owe it to our honor and position in the world to say so to England, in firm but temperate language; and, having said so, to act accordingly, be the consequences what they may." The American view, therefore was adopted by that Senator, unequivocally, and the value of the treaty to us fully shown.

In view of these remarks of General Cass, Mr. Clayton was fully justified in the speech he began on the day after, and finished on the 18th, in saying at its opening, that "about one half of the address of the Senator was of the harshest and most exceptionable character, and yet, sir, he closed with a position which seemed to be the result at which his mind had arrived, after fully investigating the whole main question, which was perfectly in accordance with my own sentiments." He then took up the whole subject again, exposing all the errors that the opponents of the treaty had fallen into, and satisfying the minds of all fair men that the convention made by him with Sir Henry Bulwer was all that was desirable for us; while the advantage of which it deprived England (if in fact she justly had any before) had been taken from her, not by any trick, deception, or device of diplomacy, but by our having for our negotiator, a man of ample knowledge of the subject treated about, patriotic heart, and proper sense of what the interests and welfare of the country required. Notwithstanding General

Cass's declaration above quoted, the debate brought forth again all, and much more, than had been before said about the British Honduras possession, and what was alleged to be the grand error, on our part, with respect to it. This required another effort on Mr. Clayton's part to compel Senators to recognize the wrong they did in persisting in the assertion that he had compromised his Government, with respect to that claim, in making the treaty — an allegation that, by explanatory letters between himself and Sir Henry Bulwer at the time of the exchange of ratification (4th of July, 1850), he had conceded what was not a fact — that British Honduras was no part of Central America — and that the Senate was in ignorance of this circumstance at the time when the treaty was approved. The old charge produced in the attack upon the treaty in 1853, with respect to the declarations reported by General Cass to have been made to him by William R. King, chairman of the Committee of Foreign Relations, was revived, and the effect seemed to be (if I am justified in saying so) to cover the mortification occasioned by withdrawal of hostility to the treaty, by imputing dishonor to the negotiator of it. But this failed entirely; for Mr. Clayton demonstrated, conclusively, by the evidence he produced and made part of his speech, not only that General Cass had erroneously understood Col. King, but that the latter had avowed that he had never made any such declarations to General Cass as were imputed to him.

In this speech Mr. Clayton reproduced every fact

bearing upon the British claim; and, in so doing, showed that when the treaty was in progress, he was master of the whole subject, and had used his knowledge with success. Every argument set up by the British against our view of the treaty was considered and answered; and so exhaustive was the effort, that the Senate felt that nothing more could be urged with respect to the justness of the construction claimed by him; and when he had closed, ordered the subject to lie upon the table. He did not finish his speech, however, without letting his adversary feel how much better he could have served his country, than by the course he had taken.

The subject of the Central American Treaty was not allowed to rest, however. The British still persisted in their course of misunderstanding, or disrespect, of that compact. Much correspondence had taken place between our Government and that of Great Britain since the debate just mentioned; and, among other documents presented by the President to Congress at its opening in December, 1855, was a letter of Lord John Russell respecting the construction of the treaty. This letter, General Cass felt, required discussion; which, of course, involved another opening of the whole subject. The letter of Russell was, as might have been expected, in support of the British view of the treaty; and, coming from so high a source, not not only because of the author's distinguished life, but of the elevated position he held in the British councils, it was proper that it should be specially

noticed. The debate, which was then begun by General Cass, was participated in by other distinguished Senators: and, to the credit of themselves and the exalted rank they held in the councils of the country, such of them as had carped at the treaty before, and notably General Cass, came forward to resist the British pretensions — having discovered, it is to be hoped, upon calmer examination of its features, that there was nothing uncertain about it; and that, if carried out in good faith by the British, it would secure Central America against her designs in future. It was shown also to have other high qualities. In a letter of Mr. Reverdy Johnson to Mr. Clayton, dated the 30th of December, 1853, and which General Cass caused to be read at the close of a strong speech upon the general subject, there occurs this language: — "This treaty is the first instance within my knowledge in which two great nations of the earth have thus endeavored to combine peacefully for the prosecution and accomplishment of an object which, when completed, must advance the happiness and prosperity of all men; and it would be a matter of deep regret if the philanthropic and noble objects of the negotiators should now be defeated by petty cavils and special pleading, on either side of the Atlantic." The object of using the letter was to assist the argument he had just made; but if there had been any thought in it which General Cass did not approve, he was too careful a person not to have excepted it from his general approval of the whole document. And,

as if to bestow upon the negotiation the highest praise, he declared that "*the Clayton-Bulwer Treaty, if carried out in good faith, would peaceably do the work of the Monroe doctrine, and free an important portion of our continent from foreign interference.*" He said that, perhaps, one motive with some of the Senators for supporting the treaty was that it would so operate. This may, however, have been intended as an explanation of the extraordinary circumstance that he had been for three years and more speaking against a measure for which he had voted. The records of the Senate, at the time, show that the vote upon the treaty was 42 for to 10 against, and that Messrs. Cass and Mason both voted for it. It appears that Mr. Douglas's name somehow got among the yeas also; but the official statement of the vote, certified by the Secretary of the Senate, and transmitted to the President, according to a standing order of the Senate for like cases, does not contain his name. Mr. Douglas undertook to explain that the omission of his name was an error, and that he called the attention of the Senate to it at the next executive session, and that it was corrected. It is very plain, from what followed, that Mr. Clayton thought that Mr. Douglas had avoided recording his name for the treaty until he found, by the result, how strong the Senate was in its favor.

On the 17th and 19th days of the succeeding March, Mr. Clayton (who took but little part in the discussion in January, upon the Russell letter, preferring to enjoy the precious satisfaction of witnessing the triumph of

his first arguments, with all their wealth of knowledge in behalf of the treaty) addressed himself, in a set speech, to the overthrow of the British assumptions. The speech was calm, deliberate, and convincing. The subject was a grave one, on account of the magnitude of our interests involved in the establishment of the pretences set up by England; and he felt himself under a more pressing obligation than had yet been experienced by him, to make the case so plain as to end all dispute; and he did it. He took occasion to point out that one of the difficulties that had arisen about British Honduras was because of the appointment, by our own Government, of a consul there. But here is his own language: "While I was at the head of the State Department, I discovered that Mr. Polk had applied, through Mr. Bancroft, to the British Colonial office, for an *exequatur* for Christopher Hempstead, who had been appointed American consul to Belize; and, immediately anticipating the very consequences which have arisen from continuing the consul there, I withdrew Mr. Hempstead and abolished the consulate. Mr. Webster succeeded me, and he reappointed and sent Mr. Hempstead back to Belize, and renewed the consulate. This was, no doubt, very gratifying to the British minister; but the effect of it has been, as we now see, to supply Great Britain with a reason for asserting a claim which she had, on so many previous occasions, solemnly repudiated." It should be explained that the appointment of a consul to a place is recognition of the sover-

eignty of the power there, of whom the *allowance* of such consul, to perform his duties at such place, is requested; and also that Great Britain had over and over again disavowed *sovereign* rights at the Belize.

While it may not be of any great importance, now that Great Britain has abandoned all her pretensions to even a *protectorate* in Central America of the Mosquito Indians (except so far as the dictates of mere humanity or charity are concerned and there she is upon the same footing as ourselves), that the merits of this controversy between the United States and Great Britain should be fully understood by us; yet it will be found profitable to read the whole debates to which slight notice only has here been given (the reports of them being accessible to all), for the purpose of learning how heroically and successfully the subject of this memoir bore himself in the contest into which he was compelled to enter by the sharp attacks made upon his work by his so able assailants. The reader of those debates will not fail to observe that never, until he had satisfactorily vindicated Taylor's Administration and his own reputation from the stain of having compromised the interests of the country, did Clayton receive assistance from any human lips — and the newspapers, with a few conspicuous exceptions, lent him no encouragement in his defence, he having offended them mortally by refusing to have an organ, or confidants in the way of correspondents, for the Taylor Administration. The complete success that crowned his defence, was owing to two advan-

tages: *1st*, his perfect knowledge of the whole history of Central America, and of the English movements there; and, *2d*, that consummate skill in attack and defence — the test of a fine debater — which had characterized his whole legal, political, and Senatorial career. Discussion, debate, were his forte. Though gifted with a fine imagination, and a power of expression of things eloquent which is shown here and there through all his studied address, yet his aim seemed ever to be to convince by reason and argument, rather than charm by display or rhetoric. The speeches made on the Central American question, show the most thorough acquaintance with the topic in all its aspects, and a skill and dexterity, as well as fine logic, of debate, nowhere surpassed in our forensic records. On all sides it was admitted that when the long and fierce battle was ended, he was not only master of the field, but had discomfited the foes of the treaty everywhere.

President Pierce's Veto of the Bill Giving Public Lands for the Indigent Insane — Called Miss Dix's Bill.

Miss Dix, an educated and refined, and also philanthropic lady, had, among the other noble thoughts which she had given to the world in behalf of the unfortunates of the human family, expressed her-

self as desirous that Congress should make a grant of the public domain to the several States for the benefit, in such form as they respectively might choose to adopt, of the indigent insane; and sympathetic people everywhere had responded to the appeal, thus made, to the nation, for relief to that unfortunate class. A bill, to carry out her beneficent proposition, was introduced into Congress, and passed both Houses. It was sent to the President for his approval; and returned with a veto, which, alas, could not be overcome by votes. But it could be discussed, and Clayton did it, exhaustively, answering the objections that were made to the bill by the supporters of the veto, and giving another exhibition of his splendid powers as an advocate. His speech breathes the warmest sympathy for stricken humanity. At the close of his long argument against the veto, he uttered the following touching expressions, which never could have come from any one not having a tender, feeling heart for humanity:

"According to the information we derive from institutions like those which this bill proposes to establish, such as have been established in Massachusetts and England, where experts and physicians have been taught to instruct the insane, and train the remnant of mind that is left, you find that at least two thirds of these miserable beings might be restored to society, and become useful members of it. But how? Not by confining them, as they are now confined, in almshouses, where there is no knowledge of

the art of reclaiming them; not by sending them to jails and prisons, where

'Moody madness laughs and hugs the chain it clanks,'

nor by relying on private charity. Individuals cannot build lunatic and insane asylums in the United States. But, if what those persons who are accustomed to investigate the subject tell us, be true, more than twenty thousand of the American people now insane, might be restored to reason and become useful members of society; and you tell me you have no power to do it! Suppose at this moment more than twenty thousand of the American people were floating in ships like the ill-fated San Francisco, in storm and shipwreck, would you not seek immediate relief for them? Would you hesitate to send out your ships for them, and expend millions to save them? Suppose they were given in captivity to a foreign power, they and their utmost hopes, would not a hundred thousand swords leap from their scabbards to redeem them from that captivity? Sir, they are in an infinitely worse state of captivity and suffering, than if they were bondmen to the Turk, or if they were suffering the distresses of shipwreck upon the ocean. It is not possible to conceive of a greater depth of human misery than that which results from the loss of reason. In them you see the human form

—'Erect, divine!
This heaven-assumed, majestic robe of earth
He deigned to wear who hung its vast expanse
With azure bright, and clothed the sun with gold:'

but, sir, although the form is there, though indeed the casket remains, yet the jewel is gone, the intellect has vanished; or, if reason still linger on her throne,

she sits trembling and distracted upon it. Still, there is the image of Him who made man and died to save him. And are we men, have we not abandoned all that belongs to our common manhood, if we do not feel for these miserable beings? Shall we strain a point of the Constitution against them? They cannot argue in their own behalf. If we do not protect and defend them, they have no defenders. If we are not their guardians and advocates, they can find none. Sir, I am exhausted, but I have not exhausted the argument, and am not capable of doing it. I must leave it to other and abler men who will follow me in the debate; but if I had strength, I would stand here and plead for these indigent insane so long as a Senator would hear me. I cannot but think, when about to take leave of the subject, of that day when we must appear before the great Judge of all the earth, and the accusation may be against us that we did not visit those who were sick and in prison; and, oh, when we have answered that, may none of us receive the awful denunciation, "Inasmuch as ye did it not to one of the least of these, ye did it not to me."

The Kansas-Nebraska Debate.

With respect to what may be said, in this narrative, about the subject which gave rise to the Kansas-Nebraska debate, and the part taken by others than Clayton, and by him, also, in the heated discussions of the questions raised, I ask that no one will suppose that I have the slightest desire to reflect upon any who participated in the discussion, or to question their

motives. If I were writing with a view of contrasting the patriotism and unpartisanship which governed Clayton's whole action as a Senator with that of some of the most prominent of his brother Senators, I might select instances, and a notable one in this memorable event, when I thought *they* had yielded to the supposed behests of mere party, while *he* had never done so. If this were a life of Clayton written at my own prompting, and for my own use alone, and were not a narrative for this Society, free from all attachments, prejudices, or biases for men as well as measures, as it is known to be, such a course would be not reprehensible; but it would be unwarrantable for me to follow it, now, if I had the inclination to do so. I shall therefore speak of the actors in this discussion about the Kansas-Nebraska measure, and the measure itself, as I think this Society will not disapprove.

Before our life as colonies of Great Britain and a confederacy of independent States had ended, and before our efforts toward the majesty of nationality had, by means of the Constitution of 1787, been crowned with complete success, the subject of the rightfulness of slavery had engaged the attention of important men throughout the country. Although slavery — that is the subjection of one man, with all his powers of body and of mind (so far as the exercise of will is concerned) to another — had always existed, as shown by the evidence of all antiquity in sacred and profane history, yet there was still a feeling inspired by the teachings of our Savior, that was considered hostile to its continu-

ance. The injunction, Thou shalt love thy neighbor as thyself, was felt to pertain as well to the lowest as to the highest; and how, if you held them subject to *your* will, that of mere man, with all his passions and impulses, could you obey that law? To the minds of those who asked this question, slavery was a great sin, to be extirpated, sooner or later. They would have insisted, no doubt, upon a provision in the Constitution for that purpose; but, knowing that the interests of the major portion of her colonies forbade it, they were fain to consent, indirectly, to the continuance of the African slave trade until the year 1808. Very many, now, of those representing anti-slavery sentiment, would feel disposed to condemn, and would reprove, the course of those who consented to that provision; but such have not been subjected to the strain of doing the best they can to attain nationality, with a doubtful chance of maintaining it, and therefore do not know what trials they might have had to meet. The achievement of freedom from British control; the further gain of local individuality, which means the right, within defined limits, of a people to conduct their public local affairs in their own way; were the controlling motives of the men who held these sentiments with respect to slavery. And let none condemn their apparent consent to what they thought a wrong. Are any so courageous morally, that *they never* submit to what they cannot approve, in order to attain an end which, when reached, may enable them to retrieve their apparently lost virtue? If there be such,

let them condemn, as they may think proper to do, the grand old patriots of '76. Freedom from the arbitrary and wholly unjustifiable tyranny of Great Britain; the ability to exercise the right of independent government; the immunity from all the exactions upon and repressions of colonial life, weak though such life was, impelled the men of '87 to submit to anything here, to be freed from government elsewhere. Imagine yourself in the hands of an enemy from whom there is the most pressing necessity to be freed; would you not submit to some present suffering to be released from all afterwards! Certainly you would; then contemplate the oppressions of the colonists by the mother country, and say whether to form an alliance that would forever protect you against them, or danger from any foreign quarter, you could not consent to the continuance of some things you might feel to be wrong. And then, suppose the wrong against which your spirit rebelled, though not wrought by your own act; had yet been created or shared in by your ancestry, would you have hesitated between risk to your political freedom and consent to this ancestral wrong for a few years more? I do not think you would. You would have done precisely what your predecessors did — submitted temporarily to what you thought an evil, to accomplish what you believed would prove to be a benefit outweighing all others — the right to choose the agents of your own will, and discharge them at pleasure; in other words — the right of self-government, to choose the executors of your own laws and dis-

miss them at will. Moralists have ever deemed that a stigma rested upon the people whose consciences were against slavery, and who, yet, consented to the repletion of its ranks by the clause allowing the importation of slaves until 1808; but their condemnation has been against the instincts of humanity which prompt to submission to almost anything to attain a great end, especially where such attainment will enable those who yield, to be in a situation to do the proper penance at the proper time. There is nothing easier than to criticise the acts of men, however placed; for there are none of them, hardly, that will bear the test of examination by a casuist. *Humanum est errare*, is a maxim approved by the universal experience of mankind. We are all liable to make mistakes; and we should be charitable towards those whom we think guilty of them. Besides, the anti-slavery patriots may have looked back into the revelations of history, and found that the relation of master and slave, in some form, had always existed, and treated the subject as chiefly one of interest, as their ancestors had unquestionably done. Let us not, therefore, cast the stone of reproach at those who consented to that part of the 9th section of Article 1 of the Constitution of the United States which authorizes importation of slaves into the country up to the year 1808. No doubt, it would have been a fine thing to have stood upon the high ground of conscience, and, in defence of sentiment, held out against the temporal blessings of national autonomy, with local indepen-

dency; and those who had done it, and sacrificed so great a blessing upon the altar of principle, would have been held up to the view of posterity as persons worthy of the best homage of the heroic days; but the prophets of the future would then have regarded them, as with our experience we should now, as men wanting in a proper estimate of the ultimate benefit of submission. While none should by any means consent to the doing of evil that good may come of it, yet one may submit long to a sense of wrong in order to avail himself at the favorable time of the advantage such submission may ultimately give to right himself. It is in a sense, wrong, to submit to laws that we feel to be harsh and unjust; and yet the most exemplary of all our religious sects, regarding the whole of them in a moral point of view only, do it, and without any wounding of their conscience — recognizing that the benefit of quiet, orderly society, though tainted with some bad rules of government, outweighs the evil of such taint — and resting also upon the faith, which has ever distinguished them, that, sooner or later, all the wrongs of humanity will be righted. "Time, at last, makes all things even," though an expression of a profane poet, has nevertheless a truth within it which they all recognize.

Nor, in considering this subject, should we harshly condemn those who insisted upon that particular clause in the Constitution. All their interests seemed to be bound up in the slavery system. The wrong, if wrong there were in it, was not of their creation, and appeared

to them to be a means of their own prosperity. The relation between their bondmen and themselves was, as they viewed the matter, a close model of that of the patriarchal days, and at least quite as beneficent as that was to the slave. In his native wilds, the African was a mere savage, the subject of chiefs who knew no law but their own will, and that will controlling life and death; without any sort of knowledge but the most obvious that mere nature could teach; with feeble instincts, even of kindred, and none of the moral relations between the sexes; and, what was infinitely worse, with no idea of a Creator and Preserver, but only of a wicked spirit whose malevolent deeds could alone be escaped by sacrifices of human victims upon bloody altars of propitiation. It did not seem to those people that there could be any great wrong in a temporal bondage which was in fact a rescue of the soul from a state of ignorance, degradation, and moral unenlightenment that precluded all hope of elevation of the base man above the rank of the mere animals that surrounded him. In fact, it seemed a blessing to the savage, as undoubtedly, through the providence of the Almighty, it has proved to be — he being now a civilized man, with ideas of his responsibility to his Creator, and his relations to society, infinitely beyond those of his race anywhere on his native continent.

Nothing occurred to disturb the quiet that existed upon the subject of slavery until thirty years after the Constitution was made; the ordinance of 1787 prohibiting slavery in all the territory north-west of

the Ohio, by almost unanimous consent — that of the South being given because of the inadaptation of the region to the employment of slave labor. In 1820, however, there arose a controversy which was the first step towards disregard of the solemn warning of the Farewell Address of Washington, against the formation of parties on geographical distinctions — a warning which, if heeded, would have effectually prevented our late civil war, the evil consequences of which, as a strife between man and man to the shedding of blood, we are still realizing. That part of the territory we had acquired with the purchase of Louisiana from France, in 1803, which now forms the State of Missouri, was in a condition to be admitted into the Union as a State, in the year 1817, and application was then made for that purpose, to Congress. There was, at this time, a population of 60,000 people there, and St. Louis was a place of 5000 inhabitants. There was no objection, therefore, on the score of numbers; but the people hostile to slavery determined to prevent, if they could, the Territory from coming in to the national family as a slave State. Like all persons of conscientious convictions, they made a strong effort to prevent what they deemed a wrong, which was met by determined opposition on the other side; and then commenced that great struggle, which never ended until slavery was abolished, to prevent its extension into new States to be carved out of the public domain. In this contest, the question was disposed of by the admission of Missouri as a slave State, but

with the establishment of a line to the north of which it was determined that no States should come into the Union as slave States — which line was the parallel of latitude of 36° 30′, called afterwards the *Missouri Compromise Line*. This digression is a necessary introduction to what is now about to be considered.

At the session of Congress of 1854, the Committee on Territories in the Senate reported a bill for the establishment of Territorial Governments in Nebraska and Kansas — the whole region of both of which unformed masses lay north of the compromise line, — in fact, above the parallel of thirty-seven degrees. Stephen A. Douglas was, at that time, the chairman of that committee; its other members being as follows: Samuel Houston of Texas, Robert W. Johnson of Arkansas, John Bell of Tennessee, George W. Jones of Iowa, and Edward Everett of Massachusetts. That bill, to the amazement and alarm of the masses of the people, while providing the usual machinery and stipulations with respect to a Territorial Government, went much farther, and proposed to concede to the inhabitants the right, as it was termed, to regulate their own domestic institutions in their own way — that is, to have slavery there or not, as the people there chose. This was at once seen to be a means of repealing, indirectly, the compromise arrangement of 1820, and produced a degree of inflammation in the public breast which had never been felt before. The opponents of the measure felt themselves justified in uniting with the enemies of the chairman of the Territorial Committee, in charging

the paternity of the measure to him, and he was not unwilling to be deemed its author. The reason they gave was, that he was endeavoring to render himself serviceable to the slave-holding interest, and thus, with the aid of such strength as would still adhere to him in the North, secure the prize of the Presidency — for which he had been longing for some time past. He and his friends defended him and his offspring upon the ground that the Missouri arrangement was unfair to the slave-holding interest, that it was unrepublican, in undertaking to restrain a part of the people in the regulation of their own affairs in their own way, that the line itself was hostile to the spirit of the Farewell Address, in that it recognized sectionality, and further that Congress had, by it, undertaken to prohibit slave-holders from occupying, with their property, the common territory, which could not, they said, be done constitutionally, and which, if submitted to, would be a practical deprivation of interest as to them, their means of prosperity being slave labor. To all which it was replied that, whether constitutional or not, the line was a compromise of principle on the part of the North, was accepted and treated as such by the South, had remained as a covenant for near thirty-five years, and had thus all the force of a fundamental provision; that the people of the North hostile to slavery as an alleged moral wrong, would view the measure in the light of a determination to subject all the unorganized territory to the influence of Southern interests; and that Southern people were as free to

settle the Territories as those of the North were, and that when those Territories were admitted as States, they would be upon the same footing as other States, having power at any time to establish slavery if they chose. But these replies had no effect with those who supported the scheme.

On the 1st and 2d of March, of 1854, Mr. Clayton addressed the Senate upon the bill reported by the committee, and in pursuance of the method he always pursued in treating public questions, went into the subject thoroughly. In his very lengthened and able argument, he treated the question presented by the bill with that breadth of view and minuteness also of detail of feature, which characterized all his Senatorial arguments. He discussed also the policy of the prior Administration with respect to the Territories, showing that it was the correct view to take of their relation to the States, and that the institution of slavery should be a matter of their own selection or rejection, after they had been allowed by Congress admission into the Union as States. He further discussed the subject of the Missouri compromise, and took the ground (which, no doubt was correct) that Congress had no power to decree any portion of the public domain to be perpetually free, or subject to slavery; and assigned the all-sufficient reason that a State could at any time, in the exercise of her sovereignty, establish slavery, if her people so wished. He fortified himself in his position about the Missouri compromise with the argument of Nicholas Vandyke in the Senate

and Louis McLane in the House of Representatives, during the debate of 1820. He thoroughly exposed the scheme at the bottom of the bill reported by the committee, and brought the measure itself into just ridicule by disclosing the fact that there was not a single white man lawfully in the region except the licensed traders with the Indians. He took the opportunity presented by the bill to renew his objection to the acquisition of territory, speaking as follows with respect to the subject, the Union, and his own course at the close of his argument:

"Mr. President, several Senators who have participated in this discussion, have said, that they desire still further acquisitions and annexation of territory. I know very well the strength of that sentiment in the country. As these opinions have been advanced in debate, I beg leave, with all deference to those who have expressed them, to announce my dissent from them. I desire the acquisition of no more territory, to be formed into States. We have now, I believe, twelve hundred millions of acres of land unsurveyed — enough, besides the vast amount of surveys, to give an acre and a half to every man, woman, and child on the face of the earth. Why, then, should we be anxious for further acquisitions? If our manifest destiny drives us on, so that we cannot resist it — if we must, inevitably, acquire more territory, if restraint be impossible, as some assert, — though I have always entertained the opinion, that the possession of provinces to be ruled by Governors ought to be no part of our policy — yet, as a choice of evils, I would

infinitely prefer that the new acquisitions should be held as colonies, or provinces, and not as States. In colonies we rule; in States they may rule us, or elect our rulers, without regard to our interests, or wishes. I know very well that many gentlemen express the opinion that the acquisition of more States to the Confederation gives new strength to it. On the contrary, I do most sincerely believe that if this Union is destined to be wrecked, its ruin will be accomplished by means of this constant tendency to expansion. By continually increasing the number of States of the Union, you multiply the chances of resistance to the laws of the general Government.

"Sir, we know well that the States of this Union are not retained within their spheres by physical force. It is impossible that they can be so retained. No chains can bind them; no ligaments but the silken cords of affection can hold them together; but those cords will lose their strength, whenever the people of the United States shall cease to be homogeneous. The interests, feelings, and sympathies of different races, will, necessarily, become different. I deplore the existence in the country, of a sentiment, which seems to be spreading, for the extension of our Confederation to those who, as they have ever proved incapable of governing themselves, can never prove capable of aiding to govern us. As an American, I am anxious for the aggrandizement and honor of my country; but, sir, if the day should ever come when we shall annex Mexico, as is desired by others, I see no hope for the Republic; when that era arrives, its history will soon be closed. We have territory enough now to form one hundred States. In sixty years you will have one hundred millions of people,

according to the ratio which has hitherto governed our progress. One hundred years hence, you will have one hundred and fifty millions. Let them, then, rule themselves wisely and well, and they will have accomplished more than even the most sanguine of the fathers of the Republic anticipated.

"I said, sir, that you could control the people of the States of this Union only by their affections. Not many years have elapsed since we were threatened with a conflict between the general Government and a State — there was no actual collision, there was no direct application of force on the one side against force on the other; but South Carolina and the United States could hear each other's drums beat; and the moment before that great measure of peace, the compromise of 1833, we were daily in peril of an encounter between the citizens of a State and the troops of this Government. If, sir, blood had been shed, who can tell what would have been the result?

"In my judgment, there was more danger of disunion then than has ever existed since. Suppose that a State, such as Pennsylvania, should resolve to resist the laws of the Union; could you retain her in the Union by force? Does any man imagine it? The first collision between her and the troops of this Government, would enlist the sympathies of her sister States around her; and a dissolution would be inevitable. Seeing that these things are so, does it not occur to you, as it does to me, that there is danger from this constant annexation of States? The inhabitants of new Territories are not like the men who formed the old thirteen colonies, who concurred in all the principles of civil government which had been taught them before they formed their Confederation.

Yet, reckless of all such considerations, we are every year aiming at the extension of our territory, and the statesmen of the nation, pandering to the passion of the multitude for more land, forgetting the blessings which we now enjoy, and which are endangered by this insane delusion, lead the popular impulse in contempt of all the lessons of history, and all the admonitions of experience.

"I will now take leave of this discussion, with the expression of my regret that on some of the topics embraced in it, I have found my own sentiments at variance with those of many of my most valued personal friends. Had I been willing to conceal my opinions to escape the censure of others, I might have easily given my vote against the bill, without disclosing my views of the Missouri compromise. But I have preferred a frank avowal of my convictions, as alike due to the country, to the Senate, and to my own self-respect. I am not the man to shun any responsibility which justly attaches to my position; and I choose to meet it firmly, but not offensively, having learned through a long public life, that Truth, the daughter of Time, will at last vindicate against all misconstruction and injurious clamor, that man who, in the public service, disregards all personal consequences, and discards all considerations tending to overrule his own just sense of duty."

We all know, to our sorrow, how the country was excited over this measure — the anti-slavery men viewing it as a scheme of enslavement of free territory, and the slave-holders and their friends, as but a measure of justice to them, which the former de-

sired still to withhold, and the politicians of both sides fanning the flames of discord, created by the introduction of the measure, until the whole country may be said to have been in a blaze of excitement. The measure was passed, but the scheme of creating more slave States was effectually baffled by the emigration from the free States, of persons to become settlers; and so great was the flow of the tide, that it soon became apparent that the States to arise from the Territories would be secured to freedom. I forbear to go further with this subject; and it is beside the purpose of this memoir to do so. It is a view of the history of the private and public life of John M. Clayton, that is to be presented, and not a review of political parties.

Tacking Measures to Appropriation Bills.

When the civil and diplomatic appropriation bill was sent to the Senate at the close of the session of 1854-5, it contained four sections which the House had inserted, revising the tariff. Mr. Clayton moved to strike out these sections; and said it was the first time, in the whole course of his legislative experience, that an attempt was ever made to put a tariff bill upon the general civil and diplomatic appropriation bill. His speech shows a great deal of indignation on his part at the attempt made, in this mode, to

change the tariff, and at the tacking of a measure so incongruous to such a bill — the effort being apparent to force the Senate to vote for the sections, or incur the blame of stopping the wheels of government. He exposed to the Senate the great danger of sanctioning such a practice — making illustrations of a striking kind to enlist the opposition of Senators. The debate necessarily led to a discussion of the tariff subject, and incidentally to the reciprocity treaty, then lately concluded with England with respect to the British possessions in North America, by which there had been established reciprocal free trade between them, so far as all agricultural productions were concerned. After delivering his views in opposition to the sections in question, not only as a dangerous precedent for the future, but for their intrinsic evil to the welfare of the country, as he regarded the subject, he discussed at length the treaty of reciprocity, clearly showing that the advantage was on the side of the Canadians, and that certain portions of our agricultural industry had grossly suffered from its negotiation. This part of his speech was listened to with great attention by a large number of agriculturists who had come to Washington to attend a convention held in their interest at the seat of government. So gratified were they with the remarks about the tariff subject, that many members of their body waited upon Mr. Clayton the next day, and thanked him heartily, for the sentiments expressed by him; and also congratulated him upon the success which his motion to strike out received — a vote

having been taken at the close of the speech, which resulted in twenty-four for the motion, and twenty-one against it. The speech was published (that is, the part of it relating to the tariff), by direction of the Agricultural Convention, and produced so strong an impression upon those who read or heard it, that when that bill went back to the House for concurrence in the Senate's amendment, that body gave its consent to the action of the Senate by a majority of six votes. Referring to the tacking feature of the bill as such, it is not perhaps too much to say, that but for the effort of Clayton to defeat it as a bad precedent, and the exposure of the mischief that might be done in the future if it were allowed, we should have had engrafted upon our legislative forms, as legitimate features, totally incongruous provisions, and obnoxious measures forced upon the country, through the contrivance of amendments to bills without the passage of which, at every session, the business of the country cannot be carried on.

The Naval Retiring Board.

On the 29th day of February, 1856, Mr. Iverson, a Senator from Georgia, submitted to the Senate the following resolutions:

"*Resolved*, That a committee of ——— Senators be appointed by the chair, with power to send for persons and papers; and that said committee be and

are hereby authorized and instructed to summon before it, the members of the late Naval Retiring Board, or such of them as may be conveniently brought before the committee, and examine them upon oath, as to the facts and evidence, grounds and reasons, upon which the action of the said board was founded in each case of the officers recommended to be put on the retired list, or dropped from the service; and that said committee be further instructed to inquire and obtain any other facts which, in their opinion, may bear upon the cases aforesaid, and report the same to the Senate.

"*And be it further resolved.* That said committee be authorized and instructed to advise and consult with the President of the United States in relation to retired and dropped officers with the view of correcting any error or injustice, which may have been committed by the action of said Retiring Board, by the reappointment, or restoration by the President, of such officers as may have been unjustly, or improperly, retired or dropped."

Years before this, complaints had been made all over the country of inefficiency, or incompetency, among officers of the navy; and, for at least twenty years, the various Secretaries had proclaimed the necessity of reform. It was said that many of those officers were grossly intemperate. So general was the belief that the *personnel* of the navy was by no means what it ought to be, that Congress at last passed a law, approved February 28th, 1855, to promote the efficiency of that branch of our service, by the creation

of a Retiring Board — the duties of which were to examine into the case of officers and recommend their retention in active service, their retirement on leave pay, or from the navy altogether. As this was a very important and delicate service, the Secretary of the Navy, to whom that duty pertained by the law, selected the board, composed by the statute of five captains, five commanders, and five lieutenants, from the more distinguished officers qualified for it, and who, themselves, could not, in any respect, be considered subjects of its operation. Their names are as follows: Captains, W. B. Shubrick, M. C. Perry, C. S. McCauley, C. K. Stribling, C. A. Bigelow; Commanders, G. J. Pendergrast, F. Buchanan, S. F. duPont, Samuel Barron, A. H. Foote; Lieutenants, J. S. Missroon, R. L. Page, S. W. Godon, W. L. Maury, James Biddle.

Every one can understand that the duty devolved upon this body of officers was of a very unpleasant nature. They had to deal with at least four classes of cases, and no matter what they might conclude, they would be sure of censure, at least, not only from the parties most immediately affected, the officers, but also from all their relations and such of their friends also as would prefer rather to espouse their side than to be just to the Board. These classes were, old age, physical unfitness from wounds or otherwise, hopeless ignorance, and incompetency from the habit of drunkenness. To the credit of the corps, no member of it could be honestly accused of coward-

ice. It was at once realized that if the Board were fearless in the discharge of their duty, and had it alone in view, the consequence must be a report recommending the retirement, partial or total, of a large number of officers, some of them of great distinction as fighting captains. It may be said that the law was unpopular in the navy — for no man could tell whether the report of the board might not embrace his own case as one to be dealt with; but upon one point, there was no difference of opinion — that the persons chosen by the Secretary to aid him in executing it, were thoroughly well suited for the examination contemplated. Although nearly a quarter of a century has elapsed since the board made its report to the Secretary, yet it is well remembered how it was received when made public. The board had acted with great diligence, and so entirely to the satisfaction of the Secretary, that he approved the report of those composing it, without any exception, or qualification — the highest compliment he could bestow upon those officers, and the surest evidence (as the event proved) that their findings were right. I have said, it is well remembered how the report was received when it was made public. It encountered a storm of opposition and denunciation by people and newspapers from one end of the land to the other; for no section but had some officer that was recommended to be retired, or dismissed; and none of them but had large family connexions, or circles of friends, to take up the weapons of offence and oppo-

sition in his behalf. Some of those recommended to be retired from active service on leave pay, were veterans and heroes whose conspicuous valor, on memorable occasions, had given to our navy a character of heroism which reflected its lustre upon our national escutcheon; some others were renowned as men of great scientific attainments; and the mass of the rest, with rare exceptions, were brave and able, and competent, but for the fatal addiction to intemperance. All being brave, and inspiring in the breasts of all people of emotion, intense admiration for that semi-reckless courage which sailors are known to possess in a superlative degree, the first sentiment of almost every one was that the board had acted unjustly, not to say cruelly. In this condition of feeling, a great many lent a "greedy ear" to all suggestions of unworthy purpose — so prone is mankind to believe the worst, where hostile feelings are aroused. The Board was accused of paving the way for their own promotion, of jealousy, of enmity, and of every other unworthy motive that could be imagined as influencing its action.

This state of feeling was communicated to and shared in by members of Congress — some among whom are always ready to lay hold upon and make the most of any and every thing which causes popular excitement, or is the occasion of popular disturbance. Besides, the aggrieved were some of them of their own people, and Congressmen felt under a sort of obligation to espouse their cause. This latter influ-

ence led to the introduction into the Senate of Mr. Iverson's resolution. It is not to be supposed, however, that the feeling was all on one side. There were plenty of persons all over the country, some of them distinguished members of Congress, who were inclined to treat the board with fairness, and not to condemn without an impartial hearing and examination; and others, who never had any doubt at all about the matter, knowing that the popular discontent with the state of the navy, respecting the efficiency of its corps of officers, was justifiable, and believing, from their knowledge of the individuals composing the board, that its recommendations were as just as they were unselfish. Among this latter class was the subject of this memoir, and one who shared this confidence with him — his colleague, James A. Bayard.

It was not long after the discussion of the resolutions began in the Senate, before it became apparent, that while the Naval Board was the main target of attack, there was a member of it who had been singled out for the deadliest aim of every shaft, and he was Samuel F. duPont. He was a man of distinction in the navy, for his character, acquirements, and ability; and was assumed by the sufferers, and their advocates, to be the master spirit of the commission. Although he had not, in any sense, made himself prominent in any action of the board — it was not consistent with his nature to thrust himself forward unless the occasion demanded it — it somehow came to be felt, apparently, that he had a controlling in-

fluence with his fellow members; and as war must be made on somebody for the board's action, it was determined that its punishment should fall upon him. This was just the kind of thing to rouse John M. Clayton's energies, which were then becoming weakened by the shadow of that coming event, his illness, which caused his death in eight months afterwards.

As I have before said, among the influences that operated upon the feelings of Mr. Clayton, and constituted characteristics of his life, were those of State pride, or love for his native State,. and all that was distinguished in her career; and his devotion to friends. To assail a Delawarean who had conferred honor upon Delaware, or to make an unjust assault upon a personal friend, were certain to call forth from Clayton such a defence as made his adversary to beware of him: for where the attack had the appearance of wantonness, he did not content himself with bare defence, however complete that might seem to be, but literally *carried the war into Africa*, and became the assailant in his turn — acting upon the sagacious theory, that defence, to be complete, in case of assaults upon individuals, or on a community, must have also the effect of punishing for the wrong done, or intended. In that way, alone, can you be secure from future aggressions. He felt that if it should pass unchallenged that duPont had done wrong, the State, whose honor was involved in his, as a public man and officer, would suffer; she would lose the prestige of having never had a public son who had cast a stain upon

her fair shield. In addition to this strong incentive to action, duPont was his friend, though several years his junior, and was one of the sons of a gentleman with whom he had been associated in his very early life, when Clerk of the Legislature — Victor duPont, a distinguished member of that body, who had manifested for the then struggling young lawyer a strong sense of appreciation and friendship. Here, then, were two motives to influence Clayton, and put him upon his mettle as an antagonist; either, however, strong enough to educe an effort worthy of his reputation as a master in debate.

In the discussion of the subject in hand, Mr. Clayton made two speeches, which are exhaustive of the whole subject — and the latter of them something more. The first was delivered in executive session on the 11th of March, 1856, and afterwards came to light by the removal of the injunction of secrecy from the proceedings, and the other on the last day of that month and the first of the month following. The first speech may be treated as a defence of Captain duPont, who had been savagely attacked, up to that time, chiefly out of Congress, by those and their friends who felt aggrieved by the action of the Board. Among other things, it had been imputed to him, that he lacked the courage which a naval officer required, and that he and others had so conducted themselves on board ship, under the command of the old hero, Commodore Hull, while in the Mediterranean on a cruise, as to require him to report them to the

Secretary of the Navy, who had directed their public reprimand by reading his letter to that effect; and that they had been ordered home by the Commodore, that their cases might be examined by the Secretary. I need not say to most of my hearers, how complete was the vindication by this speech, in executive session, against both these charges — the first of which was shown to be without the slightest foundation by a memorable event recited, and the last by the adduction of all the facts constituting the case of duPont's assailants. It was one of Clayton's characteristic qualities to leave nothing undone or unsaid when he undertook a defence, anywhere. He took care to supply himself with all the available means within reach, and then used them with complete efficiency. He brought forward, in answer to the first imputation, the report made by Lieutenant Heywood, to his commander-in-chief. This officer had been stationed, by the commodore commanding the Pacific squadron (there was no land force at that time in California), with four passed midshipmen and mariners, in the mission-house of San Jose, to prevent the execution of a threat of Colonel Pineda, that he would come to that place and put to death all friendly to the flag of the United States. DuPont was at that time at La Paz, in command of the Cyane, and hearing of the peril of Heywood, sailed at once for his relief. The next morning, at daylight, he landed his force of one hundred and twenty-two officers and men, the most of them sailors only, took command of them

in person, and succeeded, after a perilous march, being invested by the enemy on all sides, in reaching the post, and rendering the desired succor; but this was done only at the expense of hard fighting, with a foe greatly superior in numbers, well mounted and completely armed. In fact, this small battle was, under all the circumstances, one of the most brilliant engagements of the war, and will ever form a bright page in our country's history — from its phenomenal character, a battle between sailors ashore, and a mounted enemy of the best of the Mexican Cavaliers, splendidly armed, accoutred, and mounted. It could never have been won but for the determined courage of duPont, supported by the gallantry of his devoted force. The history of this enterprise and its result, the report of Lieutenant Heywood to Commodore W. Branford Shubrick, and his to John Y. Mason, the Secretary of War, are all given in this speech in executive session, and effectually disposed of the most serious of the charges made against him, by duPont's enemies; serious only, however, because it had been constituted part of the material for a public attack. With respect to the second of the charges, Clayton showed that when the Secretary of the Navy came to hear the case of duPont, and that of his companions in trouble, Pendergrast, Misroon, and Godon, and had examined their proofs, he fully exculpated those officers, ordered them back to their places on board the Ohio, and sent another dispatch to Commodore Hull, exempting them from all censure; and,

further, using the language of the speaker, "so strongly was the Secretary convinced of the injustice that had been done them, that he directed the commodore to cause this dispatch to be read publicly in the presence of all the officers who had heard his previous letter of censure."

The second speech was a defence of the law to promote the efficiency of the navy, and of the action of the board appointed under it. In vindicating them he was compelled to consider one case of alleged injustice, and, as it appeared to the country until the facts were brought out, of actual wrong. Among those who were recommended to be retired upon pay was Lieutenant Maury, an officer of great distinction not only on account of his fine qualities as a sailor, but of his conspicuous acquirements in the sciences of hydrography and meteorology. He had written and published upon the subject of both, and it was generally conceded that his contributions to that peculiar knowledge, most valuable to sea-going men, were of more value than those of all other persons. His "Physical Geography of the Sea" not only showed the cause but the effects also of the Gulf Stream, characterized by him as the *great river in the ocean*, and also gave the most valuable information with respect to the aerial currents, the periodicity, force, and direction of some of them, and the value to the mariner of knowledge of the whole of them. This man was recommended to be placed on the retired list; and here seemed to be a monstrous outrage upon the person himself, and

an insult to the intelligence and sense of justice of the country. How could such a man be unfit for duty as an officer?

It must be explained, that the report of the board had been made to the Secretary, his approval given, the necessary orders of retirement on pay, or absolutely, issued; and yet none of the evidence upon which the board acted, had been published. Indeed, there was no record kept by the board, and all their examinations had been in secret. It was impossible, therefore, for the public to understand how one so distinguished as Lieutenant Maury should have been included by the board in its list of those to be retired from active service. Not to mention other cases, this one was selected as that with which the strongest attack could be made upon the board; and General Houston, of Texas, took it up and used it with great success. He had, it seems, recommended Maury as an applicant, years before, for a midshipman's warrant; and obtained it for him. He was, therefore, bound, as he felt, to stand by his protégé; and besides, being a gallant man, he naturally espoused the cause of one he thought oppressed. It did look as if the board had, in this case at least, been guilty of the charges preferred against it. In addition to this, the law authorizing the creation of the board was assailed with great fervor; it was denounced as unrepublican in spirit; and all that the wisdom or wit of men could find to say against it or the board, was said, and freely. The right to remove an officer of the navy was seri-

ously questioned, and this by men who had never questioned such Executive power before. All this excited in Clayton that spirit of defence which I have described as partaking in turn of aggression. He was thoroughly aroused to what he regarded a duty to defend the law he voted for, the action generally of the board of which a distinguished Delaware officer was a member, and its particular recommendation in the case of Lieutenant Maury. He felt also rejoiced at the opportunity of exposing the assailants of the board in their new position with respect to the power of removal.

This speech was opened by a consideration of the last topic mentioned, and its author went back to the famous Foot's Resolution debate of 1830, to show what had been said upon the subject generally then, and that the party of which his chief adversaries now were members or supporters had sustained the power, and that the country had ultimately adopted the view taken of the subject by the supporters of the Administration of General Jackson. He then claimed that an officer of the navy was no more exempt from the operation of this law of the Executive office than any other officer, except the judges; that General Jackson had summarily struck from the rolls of the navy the names of Lieutenant Hunter and his associates in a duel, and that his right to do so was not questioned. In the midst of this Senator Butler, of South Carolina, rose and said:

"I desire to propound a question to my friend from Delaware, for I have great respect for his opinions and investigations. He assumes, what I suppose is now the practice, that the President has the right to dismiss any civil officer at his mere will and pleasure, because he may dislike him, or be politically opposed to him. Will my friend also assume the broad ground that the President, at his mere pleasure, has a right to dismiss a military or naval commander, however eminent he may be, because he may have a personal dislike towards him, or may be opposed to him in politics?"

To which the following reply was instantly made:

"I will answer my friend with great pleasure. I have had the same question proposed to me before. The question is, Has the President the right to remove any naval officer, at his pleasure? I answer that the commission of every officer, naval, military, or civil, bears, on its face, the true tenure of his office. He is, by the terms of it, to hold his office 'during the pleasure of the President,' unless he be a judicial officer. That answers the question of my friend from South Carolina. If he means to inquire of me whether I think it right, *in foro conscientiæ*, for the President of the United States to remove an officer of the army or navy, arbitrarily, without reference to the public interest, which alone should control in all removals, I tell him, as I have always told others, that removals so made are gross abuses of Executive power. But when the President removes, how can you inquire into the grounds of his action? You cannot reach him. The effort was made in the

Senate again and again, a quarter of a century ago, to ascertain the reasons for Executive removals, and it always failed. No President has permitted any Senate, and no President, I venture to say, ever will permit any Senate to take him to task as to the grounds on which he has made his removals. The result of all such experiments is, that the President has the power, and is responsible only to God and the country for its exercise."

It was said, also, that the removals under the law were contrary to republican liberty. Clayton replied, "We are told that the removals of naval officers, under the operation of this law, are contrary to the principles of republican liberty; and the Legislature of Virginia has ventured, in substance, to affirm this. Sir, what have the principles of republican liberty to do with the government and organization of the army and navy? How are you to control a navy or an army — to govern crews and soldiers — upon your principles of republican liberty? The government of a navy, to a great extent, must necessarily be a military despotism, where supreme power is vested in the commander, and absolute submission required from the men and inferior officers. The moment this state of things ceases on board ship, the crew and commander are worthless; they cannot fight with effect in defence of the country." He then argued that the power of removal by the President having been conceded to exist without supervision by Congress, there was no distinction between one class of public officers and

another — all being subject to the operation of the same principle.

Having exhausted the the subject of Executive power, and answered with success the argument of his friend Crittenden, that the Presidential power was derived from the statute creating the Naval Board, he suspended any further remarks until the next day, when he entered upon the consideration of the case of Lieutenant Maury — the strongest point that had been made against its action. It was not necessary to devote any more time to the special defence of of Captain duPont; for though he had been attacked, he said, with more virulence than any other member of the Naval Board, yet he had been defended by his colleague (James A. Bayard) "so ably and fully, that he was lifted beyond the reach of any vindication to which my humble efforts could aspire."

On that day he finished his argument in defence of the law and the board, before he addressed himself to Maury's case. When he had done with the latter, it was too plain for question that it was really no case at all, notwithstanding General Houston had made so much of it. Now, in all this discussion, Mr. Clayton, and those who took the same views that he did, labored at great disadvantage, for two good reasons — the first of which was, that it would have been cruel to have defended the board by recital of the facts upon which they acted in individual cases; the exposure would have wounded the feelings of all connected with those officers, where bad habits or want

of qualification was the cause of recommendation for retirement; and the second that the officers had enlisted a strong influence in their behalf from sympathy or other reason, and had secured the good offices, not only of newspapers, but of hosts of friends also. Thus the battle for the Naval Board had to be fought at great odds against those who led in it. There was, as Clayton and those supporting him knew, a powerful reserve force, in the facts of the different cases before the board; but they could not use them — like a general with an all-sufficient reserve corps in his rear, but which for some cause he is unable to avail himself of, in the time of peril. The defence, therefore, had for the most part to be confined to a mere support of the law, and the repulse of attacks made upon the characters of members of the board — which were assailed on grounds of personal hostility, jealousy, and otherwise, as has been before observed. And in defence of the law itself, Clayton had not the valuable aid of his colleague, who was hostile to it as a measure. In fact, taking the defence as a whole, it was hardly made by any but him — others aiding in making part of it only. Emboldened by the state of feeling, as evinced by the newspapers, the fact that there was hardly any Senator who was not in some way connected with a retired officer, and believing that the success of the attack upon the board might be risked upon the case of so conspicuous a veteran as Lieutenant Maury, those hostile to the law brought it prominently forward, and General Houston dwelt

upon it at great length, and with extremely ingenious treatment — for the old hero of San Jacinto was well skilled in attack in debate as well as war of arms, and enjoyed much consideration by his brother Senators from his urbane manners, exhibition of personal respect for them, and that simpleness in social intercourse which marked him as a man of good feelings and endeared him to all with whom he was upon terms of acquaintance. It is most probable that he did not know the facts of the case of the Lieutenant; or, knowing them, trusted that they were not understood by Clayton — a fatal mistake, which men often make who underrate their adversaries' resources; and which was always made when Clayton was the adversary, for he invariably contrived in some way to be master of all the facts of every case he dealt with. And he proved so to be in this case. While conceding cheerfully all that had been urged with respect to the eminent abilities of Lieutenant Maury as an officer and scientist, he yet proved beyond the possibility of refutation, from the public records, that owing to an unfortunate accident years before in Ohio, when upon Government duty, he had become physically disqualified to perform active service at sea in case of emergency, and, in fact, had at his own application been not only placed upon the pension list, but had secured a change of his pay by proving that his injury was of a grade rendering him less able than he had been before reported to be. In addition to all this he cited the fact that he was then, and for years

had been, in charge of the National Observatory at Washington, with a salary far beyond that to which he would have been entitled, if retained, and had not been to sea in twenty years. And he went farther; in order to strip of all its force this case, of which so much had been made by the opponents of the board, he quoted from one of several letters which Lieutenant Maury had written and published in the National Intelligencer, in the form of epistles to his son, but intended for the people of the United States. Referring to the example of De Witt Clinton as that of a man who had achieved his fame by other than political preferments or success, Maury closed this letter as follows: "Thus you see, my son, that one can become a great man — can win the blessings of posterity, receive the praise of the good, and be crowned with honors — without being a great general or sea-captain, or any thing else in the gift of 'Uncle Sam.' I hope you will never seek his service. I consider that I committed the great mistake of my life when I accepted a midshipman's warrant in the Navy." — "This passage," said Clayton, "has dwelt in my memory, because I recollect well, that when I read it, I felt somewhat surprised that a gentleman standing high in the navy of the United States, as I had always supposed he did, should so far seek to disparage the American service, in that branch of our defence, which has gained the name of our country's right arm, as to say, that the great mistake of his life was in receiving a midshipman's warrant and

entering into the navy. If that was the great mistake of his life — if he would have been a much greater or more successful man, in case he had never entered the service of his country, why is it he is now so determined and fixed in his purpose to remain in that service? Why should he so much care about remaining in the service, if he can advise all the youth of the country never to enter service? This sentiment struck me — I submit to the Senate whether I was right in my apprehension, or not — as unpatriotic. I trust this is not the lesson which an American father is to teach his son. *Devotion to his country; readiness to enter its service at all times when required for its honor or its welfare; readiness to sacrifice himself in its defence, if necessary — these are the precepts which I think it becomes an American father to teach his child.*" I have emphasized this last sentence as containing the very essence of all patriotism. Of course, after this latter exposure, the case of Lieutenant Maury lost all its consequence. The quick sense of loyalty to the country which noticed every unworthy expression of a public man, took offence at the language of Maury; and Clayton's faultless memory enabled him to recall the fatal letter in the hour of his need of it. The action of the board in that particular, could no longer, now, be reflected upon; and this was, if possible, all the more evident, when it appeared, in what was said afterwards, that one of the members of the board was the Lieutenant's own *cousin.*

All the efforts made to disparage the law, and the

action of the board, and to effect the reinstatement of the retired officers, failed in the end; and I hazard nothing in asserting that this so much traduced law has proved to be one of the most valuable on the statute book. But what a task the defence of the naval board imposed upon one suffering, then, from a rapid decline which was ere long to terminate in death! He knew it would tax to the utmost his feeble physical powers; but he was impelled to the performance of the work, by what he felt due to one who had, by his bravery, shed lustre upon his native State, and by a sense also of the injustice attempted against a board of officers of the best ability in the navy. The honor of Delaware, too, was involved; for the misdeeds of a public man are charged to the account of his State.

With this contest in the Senate, ended the last of the discussions in Congress, in which Clayton took any active part; and here may be said to have ended a career as a statesman which every Delawarean can look back upon with pride. It was neither marred by mistakes, nor blemished by misdeeds. Throughout it all, no man, however reckless of truth, or wicked of heart, ever imputed to him, by word or innuendo, anything of an unworthy nature. So scrupulous was his conscience, that he never would accept the slightest gift or favor of any kind that could be referred to his public position as the motive that prompted the offer of it. His hands were absolutely clean — his motto being, that a public

man should be as Cæsar's wife, not only pure, but above suspicion.

Conclusion.

Having treated the subject of a memoir of John M. Clayton so as to present to the Historical Society the most important acts of his life, it only remains to offer a summary of the whole. This is not actually necessary; as this paper is not so long that any part of it should be forgotten where it possesses interest. But, by and by, when all here are dead, and there are none left in the State who remember aught that I have recalled to your memory, students of the history of the public men of the State may arise, who, in the multitude of engagements demanded of them by the increasing tide of events, may not have the time, or having it, may not choose to read this memoir to learn all about Clayton; and, for want of a compendium of it, with respect to his personalities (if I may use such a word), may content themselves with some other publication, and thus run the risk (as we all incur if we are not careful to find out true facts), of being misled by ignorant persons, or those perversely, or fatuitously, bent upon establishing the truth of some theory, or dogma, without any support except such as it finds in their obtuse or perverted brain. There is another reason for making it; that in a condensed form will be presented the gen-

eral features of this distinguished man's life, in all its phases, or aspects.

It is not always, by any means, that the boy gives promise of the man; though "just as the twig is bent, the tree's inclined," is as true to-day as it was more than a century ago, when the thought found expression. We have all of us known many who, in youth, gave the highest assurance of a future eminent career in the senate, at the bar, or in the field of literature, but in the end, disappointed the hopes of those interested in them, and settled down, as we say, into the places of very ordinary persons. I have known many such myself, and rarely one of them who ever became distinguished in after life. The quality of mind which fits one for the mere achievement of knowledge, or to make display of it upon ordinary occasions, is by no means evidence that the distinction it secures at school will be followed by an equal superiority in after life. On the other hand also, we are not to treat dullness, or obtuseness of intellect, in the young, however it may depress us when observed in the case of those near to us, or otherwise, as an inevitable sign that the possessor of it will continue to be so distinguished when he reaches mature life. In the case of both classes, there are disappointments; in the first of them grievous, and in the latter most agreeable. While bright boys, of remarkable powers of acquisition and expression, have signally failed in the battle of life; those of heavy minds have, on the contrary, from the attri-

tion of the struggle, proved to have the best qualities for the attainment of solid distinction. There are gems that flash their brilliancy to the gaze as they lie in their native beds; but the finest of all are so encrusted, that the art of the polisher is required to bring forth their beauties and perfection. The rubbing which the struggle for existence, or the necessity of defence, gives, cleanses, in a sense, the strong intellect from the crust that encases it, and makes it to shine with the lustre of the diamond, before whose splendor other jewels fade into inferiority. Clayton possessed a mind made up of the brilliancy of the precocious, and the strength of the solid, intellect. But he had not enough of the former to disqualify him for the severe labor he employed in his studies: and that was why he became so distinguished in every walk of life which he trod. It was this blending of genius, if I may so speak, with the necessity for study to secure solid attainments, that made him the industrious scholar that he was; that enabled him to graduate with the highest honors of his class; that nerved him to give his whole attention to a science so dull as that of the law is supposed to be; to make the one thousand pages of notes of his student labors that he left behind him; to master, as no man in the State, as I verily believe, ever had done up to his day, the science of special pleading in the preparation of causes; and to make him capable of entering at the early age of thirty-three upon a Senatorial life so distinguished that it certainly surpassed that of most men

in this country. It was this mingling of the ornamental with the solid, the foam with the body, that gave him such unexampled power over juries, and made his addresses to the court upon the law so very attractive: and no man who has lived among us had greater weight with either. I know it has been said that he had equals in understanding and discussing questions of pure law, though entire superiority was always conceded to him with juries; but such is not my opinion of him. While there were other men in the State, in his day, on and off the bench, who were splendid lawyers; yet they were, I think, with one exception, more men of books than of genius, and sustained their high character by the knowledge of decisions rather than by the appreciation of the philosophic truth, or principle, that lay at the bottom of them. Besides, his was a ready, off-hand knowledge that his fine memory, which, as I have said, never lost anything, enabled him to use promptly, and without the refreshing that re-reading required of others. His memory was cultivated too; he had never forgotten the phrase he learnt at school — "*memoria augetur excolendo*," — the memory is improved by exercising it,— and practised it with the best success. He took no regular notes of argument or testimony, in his trial of causes, but where a word, phrase, or expression required to be commented on; and then, more for the effect such note would make, as evidence of the importance given by him to it, than for any other reason. For himself, personally, he had no need to

make notes; but for his cause, or the occasion, he sometimes wrote them. His mind was so intent upon appropriating all that was necessary for the presentation of his case, that it was quite full by the time he had to make his speech; or, if he had to reply, his adversary's argument was sure to furnish him with all the material he needed. If the adaptation of means to ends be what is claimed for it — the highest evidence of the excellence of human intellect — then he possessed it in an extraordinary degree. Whenever he engaged in any effort, at the bar, in the Senate, or in the field of diplomacy, when success was attainable, he achieved it. At school, it was to excel; he excelled. In studying law, it was to master the science; he mastered it. At the bar, it was to serve his client to the utmost that knowledge and skill could; he accomplished it. On the bench, it was to deliver the law, as he took it to be, without partiality, fear or favor; and he did it. In the Senate, it was to master the principles and details of every subject that he treated in argument, or was required to vote upon; and he never acted without doing so. As a diplomatist, he aimed at his country's honor and interest, which alone influenced his negotiations. Yet, with all these qualifications of mind, study, and experience, which he possessed, he never really wanted any public place, except upon the occasion in 1853, to which I have before referred, when the Clayton-Bulwer Treaty was attacked in the Senate. And when, soon after the attainment of his sixtieth year, he came to Dover with

the expression of Woolsey upon his lips, "An old man, broken with the storms of state, is come to lay his bones among you," he made no complaint that he was prevented from reaping more honors; and only expressed the desire that justice should be done him when he had gone. Knowing the propensity of the world to be unjust to public men, living or dead, he only craved that his official acts should not be deprived of the meed to which they were entitled.

With all the greatness, the manliness, the robustness of character, which, no less than appearance of form and face, distinguished Clayton above almost all other men, he had, in private life, the gentleness and tenderness of heart, ease and frankness of manner, and depth and sincerity of affection, that belonged to his paternal ancestry. Surely I am not mistaken, in saying that these traits in him, so like the same which distinguish the Quakers, came to him from his forefathers, the companions of Penn in his voyage to possess his dominions beyond the sea.

On the 9th day of November, in the year 1856, on the Lord's day, and while his chamber was yet illumined by the glowing light of the just departed sun, John M. Clayton passed, without pain or sign, from this world into that other, whose realities he neither doubted nor feared — having a faith, never shaken, in the truth and necessity of the Christian religion, and its assurance to the repentant; and blessed furthermore with that inestimable treasure of morality — "*mens conscia recti.*"

Obituary Addresses.

In the Senate of the United States, Wednesday, December 3, 1856.

Mr. Bayard, of Delaware, rose and addressed the Senate as follows:

Mr. President: — No more painful duty can devolve upon a member of this body than the annunciation of the death of a colleague; and the duty becomes yet more painful when that colleague has sustained an elevated position in the country, and our personal relations to him have been those of kindness and friendship.

It has become my mournful duty to announce to the Senate the death of my distinguished colleague and friend, the Hon. John M. Clayton. He died during the recess, on the 9th of November last, at his residence in Dover, in his sixty-first year; and though his health had been uncertain and precarious for some years past, his death was unexpected, and has been the source of sincere and deep sorrow both to his friends and fellow-citizens.

This, sir, is neither the time nor the place for an analysis of his great mental and moral endowments, or a critical examination of the political opinions he entertained, or general measures he advocated so ably during his long period of public service. A brief

sketch of his career, and the expression of my sincere appreciation of his many virtues, in asking for the tribute to his memory of those honors — vain though they be — which custom has rendered sacred, and to which his high endowments and eminent public services so well entitle it, seem more appropriate to the occasion.

John Middleton Clayton was born in the county of Sussex and State of Delaware, on the 24th of July, A. D. 1796. His father, James Clayton, a man of unquestioned integrity and active business habits, was a member of one of the oldest families in the State, his ancestor having come to America with William Penn. His mother was a native of the Eastern Shore of Maryland.

His father's means were those of competency, not of affluence, though his affairs became embarrassed about the time that his son's education was completed; but, with wise forecast, he had previously given that son more than fortune, in giving him the advantages of a liberal education; and well did my friend avail himself of those advantages. He entered Yale College in July, 1811, and, devoting himself most assiduously and laboriously to his studies, graduated in that venerable institution in September, 1815, with the highest honors of his class and the confidence and attachment of his instructors.

Immediately after leaving college, he commenced the study of the law under the late Chief Justice Thomas Clayton, one of the ablest lawyers of the State, and

subsequently pursued it with him, and also for one or two years at the Litchfield Law School, and was admitted to the bar in his native county in the year 1818. From his high grade of intellect and extraordinary capacity for labor, he came to the bar with a knowledge of the principles of jurisprudence seldom acquired till after years of practice; and his success at the bar of Kent county, where he located himself, was so rapid and brilliant, that in a few years he stood in the foremost rank of his profession, with able and distinguished lawyers as his competitors. He devoted himself to his profession, and took no very active part in political struggles previous to the year 1827, though he was elected a member of the Legislature in the year 1824, and subsequently filled the office of Secretary of State of the State of Delaware.

In the division of political opinions which ultimately led, in the interval between the election of Mr. Adams and that of General Jackson, to the organization of two great parties throughout the country, he adopted the principles and became identified with the fortunes of the Whig party, which being in the ascendant in the State of Delaware, he was elected a Senator of the United States in January, 1829, and took his seat in this body in December following. His public services in the Senate require no comment, for his history here is written in his country's annals. It is no slight evidence, however, of the highest order of merit, that a young man, coming into public life as the representative of one of the smallest States

in the Union, at a time when such men as Calhoun, Clay, and Webster were in the zenith of their power and influence, should rapidly acquire a national reputation, and become one of the acknowledged leaders of the great party to which he was attached. Mr. Clayton was re-elected to the Senate on the expiration of his first term in 1835; but, becoming weary of political life, he resigned his place in December, 1836. The confidence of the Executive bestowed upon him in January, 1837, with the general approbation of the bar and the people of Delaware, the office of Chief Justice of the State, which he also resigned in August, 1839; having in that, as in all the public situations which he filled, demonstrated his high capacity for the performance of its duties.

He remained in private life during the ensuing six years, but was again elected to the Senate in March, 1842; and on the accession of General Taylor to the Presidency in 1849, the office of Secretary of State was tendered to him, as the consequence of his national reputation, and accepted. The death of President Taylor in July, 1850, again placed him in private life.

During the period which he held the position of Secretary of State, he negotiated, in April, 1850, the treaty with Great Britain commonly called the Clayton-Bulwer treaty. That treaty was ratified by more than three-fourths of the Senate; and I may be permitted to say that, had it been carried out according to the plain and obvious import of its language, would

have effected all which this country should desire in relation to the territory of Central America and the safety and security of an interoceanic communication; and if difficulties have since arisen, either from the aggressions of the power with which it was contracted, or a failure on our part to insist in the first instance on its due execution, the fault, if any, rests not with him, as no action of that power contravening its proper construction occurred during the short time which he retained the office of Secretary of State after the ratification of the treaty.

He remained in private life until 1853, when the confidence of his State again returned him to the Senate.

It would be useless, if not idle, for me to dilate upon his commanding powers in debate, which most of those around me have so often witnessed.

He may have differed with many of us in opinion, but none can deny the eminent courtesy and ability which he displayed in sustaining his views, or the broad nationality of his sentiments. Indeed, one of his most striking charactistics was the intense nationality of his feelings; and numerous instances might be cited from his public life in which, where the honor or the interests of his country or the integrity of the Union was involved, he broke those fetters with which the spirit of party but too often trammels the minds of even the most distinguished public men.

As a statesman he was the pride of his State, and a cherished leader of one of the great political

parties of the country whilst its national organization was maintained.

As a lawyer he was necessarily less known to those around me, as the sphere of his forensic action, with few exceptions, was within the limits of his own State. It has been my fortune, however, to have frequently witnessed and felt his powers, both as an associate and opponent; and though I have heard very many of the most distinguished lawyers of our country in cases calling for the highest exercise of their capacity, and may have thought a few possessed greater powers of discrimination and others a more playful fancy, in the combination of all his faculties I have yet to meet his superior, if, indeed, I have met his equal, as an advocate before a jury. I will not pause now to analyze the peculiar powers which rendered him so effective, formidable, and successful in his forensic pursuits. It is sufficient that he was successful in a profession in which merit alone can command success.

To his great mental qualities he added a host of virtues. Affectionate as a son, devoted as a husband, almost too indulgent as a father, he was a kind and generous friend. Of exceeding liberality, his purse was open to those he loved and esteemed with an almost careless confidence. Little conversant with, and somewhat heedless of the mere conventionalities of society, there was a charm in the cordiality of his manner which endeared him to his friends and attracted and fascinated even his ordinary acquaintances. But, Mr.

President, successful as was my friend in all his pursuits, there were shadows cast upon the pathway of his life, and he had more than an equal share of the sorrows and disappointments inevitable to the lot of man. He achieved fame and acquired fortune, and his checks in the pursuit of either were few and transient. This is the bright side of the picture. The reverse presents the afflictions to which, in the dispensation of an all-wise Providence, he was subjected in his domestic relations.

In September, 1822, he married the daughter of Dr. James Fisher, of Delaware, an accomplished lady, and the object of his first affections. After a little more than two years of domestic happiness, she died in February, 1825, leaving him two sons, and to him her loss was a life-long sorrow. He cherished her memory with an almost romantic devotion, and, though unusually demonstrative as to his ordinary emotions and feelings, with his deeper affections it was otherwise. His was a grief which spoke not, and even the observant eye of friendship could only see, from momentary glimpses, how immedicable was the wound which had been inflicted. Of the two children which she left him, the youngest, who was of great promise, both intellectually and morally, died in January, 1849, in his twenty-fourth year, and the other two years afterwards. On the death of his youngest and favorite child, there was a desolation of the heart which, though it vainly courted relief in the excitement of public life, could scarcely be realized by those who

have not suffered under the pressure of a similar sorrow. Perhaps it is best pictured in the melancholy reflections of Wallenstein:

> "I shall grieve down this blow; of that I am conscious.
> What does not man grieve down?
> From the highest,
> As from the vilest thing of every day
> He learns to wean himself; for the strong hours
> Conquer him. Yet I feel what I have lost
> In him. The bloom is vanished from my life.
> For, O! he stood beside me like my youth,
> Transformed for me the real to a dream,
> Clothing the palpable and the familiar
> With golden exhalations of the dawn.
> Whatever fortunes wait my future toils,
> The *beautiful* is vanished, and returns not."

Such, Mr. President, was my colleague's career, and such his sorrows. He stood isolated in the world; for, though there remained affectionate relatives and kind friends, they could not satisfy the longing of the heart for those nearer and dearer who had passed away. I cannot doubt that the corroding effect of this great grief, and the indisposition to physical exertion which it naturally produced, undermined a very vigorous constitution, and foreshortened his life, at an age when ripened experience and undecayed mental powers would have rendered his services most valuable to his country.

Among the graves of the last century, Mr. President, in an old churchyard at New Castle, there is an epitaph upon the tombstone of a Mr. Curtis, who

died in 1753, after having filled many public offices in the then colony of the "Three Lower Counties upon Delaware," attributed, I believe correctly, to the pen of Benjamin Franklin. It might, with a change of name, be most appropriately inscribed upon the tomb of my lamented friend:

"If to be prudent in council,
Upright in judgment,
Faithful in trust,
Give value to the public man;
If to be sincere in friendship,
Affectionate to relations,
And kind to all around him,
Make the private man amiable,
Thy death, O Clayton,
As a general loss,
Long shall be lamented."

I will but further add, as the last and crowning act of my colleague's life, that he died in the faith and with the hopes of a Christian.

Mr. President, I offer the following resolutions:

Resolved, unanimously, That the members of the Senate, from the sincere desire of showing every mark of respect due to the memory of the Hon. JOHN M. CLAYTON, late a Senator from the State of Delaware, will go into mourning, by wearing crape on the left arm for thirty days.

Resolved, unanimously, That as an additional mark of respect for the memory of the Hon. JOHN M. CLAYTON, the Senate do now adjourn.

Mr. CRITTENDEN, of Kentucky:—

MR. PRESIDENT:—I rise for the purpose of seconding

the motion that has been made for the adoption of the resolutions just offered.

I would not willingly disturb, by a single word, the sad and solemn silence which has been impressed upon the Senate by the announcement that has just been made of the death of Mr. CLAYTON; but I feel that it is due to this occasion, and to our long and cherished friendship, that I should offer to the memory of my departed friend the humble tribute of my respect and affection.

He is so freshly remembered here that I can hardly realize to myself that we are to see him in this chamber no more; that I am no more to see him take his seat by my side, where he was so long accustomed to sit; no more to receive that cheerful, happy, cordial salutation with which he greeted us every morning as we met in this chamber.

But, Mr. President, I must restrain these recollections and the feelings to which they give rise.

I will not attempt any delineation of the character of Mr. CLAYTON, or any enumeration of his public services. These belong to history. But we who were his associates, who saw, and knew, and heard him, can bear witness that he was a *great man* and a *great statesman*, of unsullied and unquestioned patriotism and integrity, and that in the Senate and in the cabinet he rendered great service to his country. If history be just to him, she will gather up all these materials, and out of them she will mould for him such a crown

as she awards to great and virtuous statesmen who serve their country faithfully and well.

The death of Mr. CLAYTON is indeed a public loss, a national misfortune; and to his native State, which he so long and honorably represented in this body, a bereavement at which she may well mourn, as the mother mourneth over a favorite child. He loved and served her with all his might and all his heart, and acquired for his noble little Delaware fresh titles to respect and distinction in the Union. She can no longer command his services; but the memory of him will remain to her as a rich treasure; and his name, bright with recorded honors, will ascend to take its place with the names of her Bayards, her Rodneys, and her other illustrious dead, and with them, like so many stars, will shine upon her with all their benign influence.

It must be pleasing to us all to learn from the honorable Senator from Delaware (Mr. BAYARD) that Mr. CLAYTON died a *Christian*. So he should have died. Such a death gives to humanity its proper dignity. Full of the world's honor, he died full of the more precious hopes that lie beyond the grave. Of him who so dies we may well exclaim, "O death! where is thy sting? O grave! where is thy victory?"

Mr. CASS, of Michigan:—

MR. PRESIDENT: — Once more are our duties to the living suspended by the last sad tribute of regard to the memory of the dead. Another of our associates has passed from this scene of his labors to that dread

responsibility which equally awaits the representative and the constituent, the ruler and the ruled. All human distinctions are levelled before the destroyer, and in the narrow house to which we are hastening the mighty and the lowly lie side by side together. There our departed friend has preceded us. When we separated, but a few days since, he was a bright and shining light among his countrymen. Returning to resume our functions, we find that light extinguished in the darkness of the tomb. Well may we exclaim, in the impressive language of the Psalmist, man's days are as a shadow that passeth away.

His character and services have been portrayed with equal power and fidelity by the Senators who have preceded me, one of them his respected colleague, and the other his personal and political friend, and both of them entitled by long acquaintance to speak as they have spoken of him; and their words of eloquence have found a responsive feeling in the hearts of their auditors.

I cannot lay claim to the same relations, but I knew him during many years, and his high qualities have left their impress upon my mind, and I rise to add my feeble testimonial of regret that he has been taken from among us.

The deceased Senator from Delaware was long identified with the political history of the country. Sent here by the confidence of his native State thirty years ago, he brought with him eminent qualifications for the position, and which led to the high distinction

he acquired. To a vigorous and powerful intellect, improved by early training, he added varied and extensive acquirements, the fruit of ripe study and of acute observation; and he possessed a profound knowledge, rare indeed, of the principles of our Constitution, and of those great questions connected with our peculiar political institutions which so often present themselves for solution, and sometimes under circumstances of perilous agitation. He was a prompt and able debater, as we all know, and touched no subject upon which he did not leave marks of thorough investigation. In whatever situation he was placed he met the public expectation by the ability he displayed, and by his devotion to the honor and interest of his country.

In looking back upon our communication with this lamented statesman, every member of this body will bear testimony to the kindness of his feelings, and to the comity and courtesy which marked his social intercourse. He was a happy example of that union of decision of opinion and firmness of purpose, in public life, with the amenity of disposition which constitutes one of the great charms of private life — a union the more commendable as it is rarely found in the exciting scenes of political controversy. His was a most genial nature, and we cannot recall him without recalling this trait of his character.

It is a source of consolation to all his friends that when the last change came it found him prepared to meet it. He entered the dark valley of the shadow of death with a firm conviction of the truth

of the mission of Jesus Christ, and with an unshaken reliance upon the mercy of the Saviour. He added another to the long list of eminent men who have examined the evidences of revealed religion, and who have found it the will and the word of God; and he died in the triumphant hope of a blessed immortality, which the Gospel holds out to every true and humble believer.

Mr. SEWARD, of New York: —

Mr. PRESIDENT: I consult rather my feelings than my judgment in rising to address the Senate on this melancholy and affecting occasion. While it seems to me that I have few nearer friends remaining to me than JOHN M. CLAYTON was, I remember, nevertheless, that he was by a long distance my senior in the Federal councils, and that, although we were many years members of one political party, yet we differed so often and so widely that we could scarcely be called fellow-actors seeking common political objects and maintaining common political principles. But it has been truly said of him that he was a man of most genial nature. The kindness which he showed to me so early and continued to show to me so long, removed all the constraints which circumstances created, and I never failed to seek his counsel when it was needed, and his co-operation when I felt that I had a right to claim it.

Mr. President, I think no one is surprised by this painful announcement. His health and strength were

obviously so much impaired by frequent visitations of disease during the last regular session of Congress, that when I parted with him in September last I was oppressed with the conviction that I should meet him no more on earth. The remembrances of kindness and affection he then expressed to me will remain with me until I shall meet him, as I trust, in a better and a happier world.

Mr. President, I have fallen into these funereal ceremonies, without any prepared, or even meditated, discourse. Perhaps if I shall let my heart pour forth its own feelings, I may render to the illustrious dead a tribute not less just than that which I could have prepared, had I applied myself to the records of our country, and brought into one group the achievements of his life.

This I must say, that JOHN M. CLAYTON seemed to me peculiarly fortunate in achieving just what he proposed to himself to achieve, and in attaining fully all that he desired. His respected and distinguished colleague has given testimony which was germane, though hardly so necessary as he thought, to the fact that Mr. Clayton was eminent in his profession as a lawyer and an advocate. He began life with the purpose of attaining that professional eminence. We who are here his survivors knew him in other spheres. His ambition led him at different periods into two different departments of public service — the one that of a Senator, the other that of a minister or diplomatist.

Fame is attained in the Senate by pursuing either

one of two quite divergent courses, namely, either by the practice of delivering the prepared, elaborate, and exhausting oration, which can be done only unfrequently, and always on transcendent occasions, or by skill, power, and dignity in the daily and desultory debates, on all questions of public interest, as they happen to arise.

I happen to know, or to have good reason to think, that Mr. CLAYTON'S ambition preferred this last-mentioned line of Senatorial effort. He kindly became my counsellor when I entered this chamber as a representative of my State, and his well-remembered advice was couched nearly in these words: "Do not seek great occasions on which to make great speeches — one in a session of Congress — but perform your duty to your constituents and your country by debating all important subjects of administration as they occur." Senators all around me will remember how constantly and indefatigably he himself pursued the line which he had thus marked out for me.

Those who shall now read, as I am sure posterity will read, the recorded debates of the Senate for the period embraced within the last twenty-five years, will find that, although surrounded by mighty men in argument and speech, JOHN M. CLAYTON was one among the few effective statesmen who determined or influenced the administration of the government of this great country.

His other department of public service was diplomacy. Never have I seen a man more admirably

qualified by astuteness, comprehensiveness, and vigor, for that arduous and responsible branch of public life. He excelled not merely by reason of these qualifications, but also, and eminently so, by reason of his frankness of character and conduct. He was frank, open, direct, and manly. He showed his purposes in outspoken and direct communications. Perhaps we owe to him as much as to any other of our many able diplomatists, the achievement of the United States in instructing the nations of Europe that diplomacy is best conducted when it leads through open, fair, and direct courses.

Mr. CLAYTON was, as has been truly claimed for him, a patriot — a lover of all the parts and of the whole of our common country. The peculiar location and character of the State which he represented — lying midway between the North and the South — probably had the effect to confirm his natural tendency of temper, and render him conservative, careful, cautious, and conciliatory. I respond to the claims made in his behalf by his colleague and by his venerable friend and compatriot, the Senator from Kentucky (Mr. CRITTENDEN), in this respect, when I say that I regarded his presence in these halls as a link of union between the generation which has passed away and that generation on which the responsibilities of national conduct have devolved, and his influence necessary for the happy solution of those great questions involving cherished interests of the North and of the South, which press upon us with so great urgency. Such

was the character he maintained here as a Senator and a legislator — an umpire between conflicting interests, a moderator between contending parties. How natural, then, that he should be eminently national, eminently comprehensive in his action as a minister and a diplomatist!

A very distinguished French savan (Mons. Ampère) begins his journal as a traveller with an account of his visit at the World's Fair, held, I think, in 1852, in London; and he pronounces that great exhibition of the industry of so many nations as the first universal fact in the history of the human race. He egregiously erred. That great event was neither the most important, nor was it the first, of the universal facts which have transpired in our own day. The first universal fact — a fact indicating an ultimate union of the nations — was the Clayton and Bulwer treaty, that treaty which provided for the opening of passages of communication and connexion across the Central American isthmus, to the growing civilization of the western and modern, and the declining civilization of the eastern and ancient world. It was the felicitous good fortune of JOHN M. CLAYTON, not more than his genius and ability, that enabled him to link his own fame with that great and stupendous transaction, and so to win for himself the eternal gratitude of future generations, not only in his own country, but throughout the great divisions of the earth. Whatever difficulties have hitherto attended the execution of that great treaty, whatever future difficulties may attend it,

the treaty itself is the bow of promise of peace, harmony, and concord to all nations, as it is an imperishable monument to the fame of him whose worth we celebrate, and whose loss we deplore.

The resolutions were agreed to, and the Senate adjourned.

IN THE HOUSE OF REPRESENTATIVES, WEDNESDAY, DECEMBER 3, 1856.

A message was received from the Senate, by ASBURY DICKENS, their Secretary, announcing to the House information of the death of the Hon. JOHN M. CLAYTON, late Senator from Delaware, and the proceedings of the Senate thereon.

The resolutions of the Senate having been read, —

Mr. CULLEN, of Delaware, rose and addressed the House as follows:

I rise, Mr. Speaker, for the purpose of performing, to me, a most painful duty: it is to announce to this House, and to the nation, the death of one of the most distinguished citizens of the State of Delaware.

I need not portray to this House the character of the deceased. It was known to us all, and to the nation. His reputation is spread throughout the length and breadth of this land; but I cannot let this occasion pass without making some remarks which may show to this House and the country the light in

which I would invite them to regard the career of of our deceased Senator and statesman.

He was a man of great research and great intellect, of profound learning and uncommon quickness. He has occupied a place in the history of this nation for a period of thirty years, as one of the most distinguished citizens of this country. He was born in the village of Dagsborough, in the county of Sussex, and State of Delaware, on the 24th day of July, 1796. He entered Yale College, and graduated in 1815, with the first honors of his class. Upon his return to the State of Delaware, he commenced the study of the law with his relative, the Hon. Thomas Clayton, a distinguished member of the bar of that State, and for many years a member of this House, and afterwards one of our Senators; he was a very distinguished jurist, and stood at the head of his profession. With him he studied one year, and then removed to the Litchfield Law School, then under the charge of two distinguished professors, Judges Gould and Reeves. He there pursued his studies, with great diligence and industry, for the period required by the rules of our courts, previous to his admission to the bar of the Superior Courts of Delaware, to which he was admitted in 1818, in the county of his birth. His splendid examination gave early promise of his future eminence and success.

He soon became distinguished in that position. It has been my fortune to be engaged with him in the argument of many causes, both as his colleague and

as his opponent; and I must say to this House, and to the nation, that never have I witnessed the display of such quickness of apprehension, such memory, such a grasping intellect, such learning, such zeal and ingenuity, as were displayed by the deceased on every occasion in which he found it necessary to exert his great mind in the progress of a cause. As a lawyer, he was profound and industrious, of untiring patience. He viewed his cases in every point of light in which they could be seen, and could see every point in them at a glance. But he was not satisfied with a glance. He investigated every position, and was prepared for every question which could arise in the case. I have seen gentlemen whose legal minds, I thought, were equal to his; but when he prepared himself, never has there been known in the State of Delaware a man who could be said to be his equal. It is confidently everywhere asserted that he never saw his equal, especially as an advocate before a jury.

As an advocate, he excelled any member of the bar whose career has been witnessed by any person now living. I have known him to be successful in cases which any other lawyer would have despaired of; and so keen was his perception of the ludicrous, that if the case of his opponent presented any features of which advantage could be taken by turning them into ridicule, he was sure to succeed. I have known him to gain causes certainly against law, and the evidence, and the facts of the case, by his superior ingenuity, and his deep knowledge of human nature.

As a special pleader, he was not surpassed by any gentleman at that profession. His talents as a lawyer, even when he had been but a few years at the bar in the practice of his profession, soon became known throughout his native State; and before he had been at the bar three years he was sought after and engaged in every important cause in the State. Every litigant was anxious to procure his services, thinking his aid sufficient to secure certain success.

But he was not long to enjoy the quiet of his profession. He soon became the leader of the Whig party in the State of Delaware. Though quite young, he was known to possess more extensive and commanding influence than any other gentleman in that party, of which there were many of great talent, learning, and distinction. In the year 1824 he was selected by Governor Paynter as the Secretary of State of the State of Delaware. That was the first instance in which an office of so much importance and responsibility was ever conferred upon a man so young and of so little experience. He performed the duties of that office, as well as of all others which he held, with skill, integrity, and great ability, and left it with great popularity. I should state that the first public employment in which he was engaged was that of a member of the House of Representatives of the Legislature of Delaware, and soon after that of Auditor of Accounts — an office which, I believe, is peculiar to the States of Delaware and New York. When he entered upon the duties of the office of Auditor of

Accounts, everything was in confusion there, and though but a young man, he soon reduced the chaotic mass into a perfect system. He left upon the records of Auditor the impress of his own great mind; and the business of that station has ever since been conducted upon his own great model and system, which it is believed can never be improved.

He was next elected to the Senate of the United States in A. D. 1829, when he was barely of the age which the Constitution requires for that station. He was re-elected in January, 1835. He resigned that office before the expiration of his term, and was appointed Chief Justice of the State of Delaware in 1837. That station, like all others which he filled, he adorned by his learning, by his great ability, and by his spotless integrity. No man, perhaps, ever left that office with so high a reputation as a judge, as did the Hon. John M. Clayton; and I may be permitted to say upon this occasion, that in the many causes which he decided, it is not in the recollection of any member of the bar that there was ever a writ of error or an appeal taken from any decision which he made. He always gave such authorities and reasons for the decisions which he made, so full and satisfactory, that no counsel ever advised his client to undergo or risk the chance of a reversal of the judgment given by the court of which he was the Chief Justice. He was afterwards elected by the people as a member of the convention to amend the Constitution of the State of Delaware. In that convention he was

the leading member, which gave the amendments of our Constitution to the people of Delaware, thus leaving upon that Constitution the marks and footprints of that high and mighty intellect which he was known to possess and command. The judiciary system of Delaware, planned and produced by him, has ever since been looked upon and held as a masterpiece of intellect, foresight, and wisdom, which has never been surpassed.

He resigned the office of Chief Justice in 1839, and was again elected in 1845 to the United States Senate for the full term of six years. He resigned his office as Senator, and was appointed Secretary of State of the United States in 1849. He was again elected Senator in 1853.

The deceased died at Dover, the place of his residence, November 9, 1856. It has fallen, Mr. Speaker, to the lot of few men to hold and enjoy that deep-rooted and hearty popularity which our deceased friend possessed from his first admission to the bar to the day of his death. He engaged, won, and held the affections of all with whom he was associated and connected. Perhaps there is no man, certainly none of his eminence and distinction, who had fewer enemies. It is a remarkable fact that he never bore malice towards any human being. In the many contests in which he was engaged, as must be expected, there was some ill-feeling and strife engendered. I have known those who have expressed ill-feelings towards him, and towards whom, perhaps, he entertained

no very kind feelings; but whenever he was approached with kindness, even by an open enemy, his better feelings instantly gained the ascendant, and in a moment he was fully reconciled. Every passionate feeling went from him, and he received those who had been his enemies with all the kindness of a friend, void of every bitter feeling. His reconciliation was perfect and sincere. He fully pardoned and forgave, and the past was wholly forgotten by him. He was one of the warmest and kindest-hearted men that ever lived. As a husband and father he never was surpassed. As a friend he was sincere, and was beloved by all with whom he was associated. I need not say to this House that he had the confidence of all with whom he was associated and had connexion, and never was that confidence betrayed or misplaced.

The State of Delaware now mourns the death of her most distinguished son, statesman, and patriot. We mourn his death at this time more particularly, because, from the principles which he held, his life would have been most useful. He was a conservative man. He loved his country, and the Constitution of the country. He loved the Union and every part of it. There was nothing like disunion in him. He held to the Union to the last, and called upon his friends and relatives to stand by it. Though not connected with any of the parties which engaged in the late Presidential contest, yet he did not fail to make it known to all with whom he was connected, that he stood by the principles which he had always advocated,

and to call upon them to remember their country and the Union as above all price.

I feel, sir, that this is a mournful occasion. A man of great distinction, of known influence, and of the highest attainments in our country, has been swept from us suddenly and unexpectedly. The State of Delaware mourns the loss of her most distinguished son. His death is a loss to the nation. Ever since he has been in the Senate, even from his first session there, he has taken an active participation in all important debates which have occurred in that body. His speeches and state papers will make a work of four or five volumes. They will be consulted by future statesmen as models of oratory, as models of good sense, and as models of patriotism and of wisdom. His mind was powerful; his memory most extraordinary and retentive; his habits were exceedingly regular. It has often been asserted, and never, to my knowledge, contradicted, that, during the four years he was a student and member of Yale College, he never missed a single recitation; never once absented himself from prayers, morning or evening; never, during the whole four years, was once absent from church; and never, upon any occasion, violated a single rule or law of the college. His constitution enabled him to endure almost any amount of laborious investigation. I have known him to be engaged two, and even three successive nights, without sleep, in the investigation of a single case. But that constitution, strong and powerful as it was, had at last to yield to the

fell destroyer. Disease enfeebled and broke him down, and we now mourn his loss.

I rejoice to say that he died a Christian. From his youth he ever had the most profound respect and reverence for the Christian religion. He fully believed in the truth of Divine revelation before his death; he made an open profession of the religion of the Saviour; was formally admitted into the Presbyterian church at Dover, where he died; and his whole deportment and conversation, from the time of his profession up to time of his death, showed the full sincerity of his profession — that he was a sincere Christian. He greatly rejoiced in the evidence of his acceptance as an humble believer. "He died the death of the righteous, and his latter end was like his." He died in the full assurance of faith and of hope.

I hold in my hands some resolutions which I propose to offer to the House for its adoption.

The resolutions were read, and are as follows:

Resolved, That this House deeply laments the recent death of the Hon. JOHN M. CLAYTON, a Senator of the United States from the State of Delaware; and that as a testimonial of respect for his memory, the members of the House will wear crape on the left arm for thirty days.

Resolved, That the clerk communicate a copy of the foregoing resolution to the family of the deceased.

Resolved (as a further mark of respect), That the House do now adjourn.

The resolutions were agreed to; and thereupon the House adjourned.